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Supreme Court, U.S.
FILED

No. 97 909 DEC - 1-1997

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In the Supreme Court of the United States

October Term, 1997

Linda Maddox

Petitioner

v.

Capitol Bankers Life Insurance Company, et al.

On Petition for Writ of Certiorari
To The United States Court of Appeals for the Seventh Circuit

PETITION FOR WRIT OF CERTIORARI

Linda Maddox,
Pro se
Post Office Box 5662
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58 pp

QUESTIONS PRESENTED FOR REVIEW

1. Should denial of motion to proceed *in forma pauperis* be sufficient grounds for summary affirmation of the district court, when such a ruling denies the poor or "borderline" impoverished access to proper court adjudication of grievances, and especially when plaintiff herein has paid all filing fees and is willing and determined to proceed whether such motion be denied or approved?

2. Should the district court's order be affirmed when no discovery and/or oral argument, proper hearing on the merits, has been had although plaintiff's statement of claim details facts which are abundantly substantial, give rise to the cause of action and are sufficiently detailed and clear?

3. Should the district court's order be affirmed when the facts and circumstances of discrimination against plaintiff on the basis of gender and religion present an urgent problem needing Supreme Court review, in that there is a new question of two-sided discrimination against religious converts as misfits/outsiders to both the former and latter groups of affiliation, which prejudice constitutes a blatant violation of freedom of religion the forefathers of the United States founded this country to establish?

4. Should the district court's order be affirmed when dismissal WITH PREJUDICE prevents justice and relief now or in the future against gross discrimination on the basis of gender and religion, relief badly needed by both the community and plaintiff, who is not only a member of a class of "converts" opposed by the public at large and by anti-religionists generally, but also a member of the class of bankrupts discriminated against by the public at large although bankrupts now form a federally-protected class?

5. Should the district court's order be affirmed (a) when questions of material fact remain and both plaintiff and a defendant have properly requested a trial by jury to establish interpretation of

facts, (b) when the magistrate and district court failed to interpret the facts and their severity in the light most favorable to plaintiff as required, (c) when plaintiff has clearly established her membership in the protected class of females and religious converts, and (d) when two-thirds of the defendants and injuries were not considered nor addressed by the court?

6. Should the district court's failure to grant leave to file an amended complaint be affirmed, especially when plaintiff complains *pro se*, has basic constitutional grounds for complaint, and has had difficulty obtaining representation by counsel due to conflicts of interest?

7. Should the district court's order be affirmed when its failure to waive filing with the EEOC with respect to some of the defendants does not reflect the interest of justice and the waiver appropriately applied to similar cases by this and other circuits?

8. Should the district court's order be affirmed when the magistrate's recommendation, on which the district court relied, assumed a definition of disability not appropriate to plaintiff, and when the magistrate failed to recuse himself although requested to do so because of his conflict-of-interest relationship with a defendant and because of his affiliation with a class exhibiting improper prejudice against plaintiff as a female?

9. Is it the duty of the court to advise a *pro se* plaintiff of the appropriate statutes (*e.g.*, "private right of action" as opposed to "criminalized" discrimination statutes, eavesdropping/ wiretapping connected with trespass, and/or postal service employees' cooperation with privacy invasion/breach of confidentiality) under which to complain so that truth and justice are obtained against violation of plaintiff's basic, constitutionally-guaranteed rights? If so, should the district court's order be affirmed when the court failed to advise plaintiff of the appropriate statutes to assure not only her, but every other *pro se* plaintiff's, poor person's [or bankrupt's], female's and/or convert's basic constitutional freedoms and rights to due process of law?

PARTIES

Plaintiff is a Jewish individual of Caucasian descent and color, a citizen of the United States and a resident of the State of Illinois, with her post office address at P. O. Box 5662, Evanston, Illinois 60204. While employed at Mutual Benefit Life Insurance Company (now Fortis Benefits Insurance), Plaintiff resided at 8901 East 54th Street, Kansas City, Missouri; while employed at Capitol Bankers Life Insurance Company, Plaintiff resided at 5936 North Berkeley, Whitefish Bay, Wisconsin; while employed at Azulay & Azulay, P.C., Plaintiff resided at 5630 North Sheridan, #706, Chicago, IL and 6316 North Richmond, Chicago, IL; while employed at Lord, Bissell & Brook, Plaintiff resided at 6316 North Richmond, #3B, and 6147 North Mozart, 3rd Floor, Chicago, Illinois; while employed at Dardick & Denlow, and while a graduate student at Northwestern University, Plaintiff resided at 6419 North Richmond, #3W, Chicago, Illinois; from April, 1995 - April, 1996, Plaintiff was located in Columbia, Missouri after an automobile collision. From April, 1996 to April, 1997, plaintiff resided at 1945 Sherman, Evanston, IL 60201.

Defendants are as follows:

1. Capitol Bankers Life Insurance Company ("CBL") is an insurance company, licensed to do business in the State of Illinois, with its principal address (through 1992) at 205 East Wisconsin Ave., Minneapolis, Minnesota (800) 558-1011; currently listed by A.M.Best's at (414) 277-9449, (800) 825-0003, with a reported $10+ million operating profit in 1994 (1995 A.M. Best's), with its assets held by North American Life Assurance Company, 5650 Yonge Street, North York, Ontario, Canada M2M 4G4, of which CBL is a subsidiary. CBL has a policyholder service branch in Greensboro, South Carolina (Liberty Insurance Services may also service CBL contracts); North American Life Assurance Company also recently merged with ManuLife Financial, the headquarters of which is also in Toronto, Canada. CBL services contracts of insurance policyholders in Illinois and other states of the Union. Counsel for CBL, to whom Waiver of Summons forms were sent, is Piette & Jacobson, 1233 North Mayfair Road, Suite 204, Milwaukee, WI 53226-3255, (414) 257-3700; Fax: 414-257-3729.

2. Bruce E. and Fran(ces) Nickerson are individuals, of Caucasian descent and color, citizens of the United States, with a

residence at 306 East Greentree Lane, Lake Mary, FL 32746; (407) 333-9725 where waiver of summons forms were received by them during February, 1996 (return receipt in court file). During the time of Plaintiff's employment at CBL, from March, 1992 to June, 1993, Bruce E.. Nickerson was Vice President and Actuary of CBL; Fran(ces) Nickerson was/is his wife. By affidavit, Bruce E. Nickerson states that he currently resides in Doylestown, Pennsylvania. Alpha Omega Investigations, Inc. of Harrisburg, Missouri, in February, 1996, told Plaintiff that Bruce E. Nickerson also has a residence in East St. Louis, Illinois; Bedford, Massachusetts was also mentioned. During the time that Plaintiff was employed at CBL, Bruce E. and Fran(ces) Nickerson resided in the greater Milwaukee, Wisconsin area. Fran(ces) Nickerson is both expressly and impliedly liable for the discriminatory termination of Plaintiff's employment at CBL.

3. Reverend Al Nichols, of Caucasian descent and color, is a citizen of the United States, with his post office address at 1851 Genesee, Delafield, WI 53018, (414) 646-3246. Plaintiff was "referred" to Nichols by Bruce E. Nickerson. Nichols is a co-conspirator in the unjust termination of Plaintiff from CBL and liable for discriminatory sexist "teaching" (harassment) techniques thereafter.

4. J. Daniel Azulay and Y. Judd Azulay are individuals, of Jewish descent and color, citizens of the United States, residing in the greater Chicago area and practicing law in the City of Chicago, State of Illinois, individually and as members of their professional corporation, Azulay & Azulay, P.C., with its post office address at One East Wacker, Chicago, Illinois 60601; 312-236-6965. Azulay & Azulay, P.C. ("A&A") was Plaintiff's employer from July, 1983 to August, 1986. Esther Azulay and Gladys Azulay, the wives of J. Daniel and Y. Judd Azulay, respectively, are individuals of Jewish descent and color, citizens of the United States, residing in Chicago, Illinois and Skokie, Illinois respectively; Gladys Azulay is expressly liable for discriminatory acts against Plaintiff, Esther Azulay is impliedly liable for discrimination against Plaintiff, both adversely affecting the conditions of Plaintiff's employment. Maria Duron, an individual of Mexican descent and color, and Carol Hay, an individual of Caucasian descent and color, were employees at the Azulay law firm during Plaintiff's employment by

Azulay & Azulay, P.C., and are individually and/or officially liable for discriminatory acts against Plaintiff. During Plaintiff's employment by A&A, she resided at 5630 North Sheridan, #706, Chicago, Illinois, where Maria Duron and Gladys Azulay impliedly invaded Plaintiff's privacy through agreement with the building management. Y. Judd Azulay also implied tape recording of Plaintiff's private conversations at said apartment through eavesdropping devices and/or wiretapping in violation of 18 USC § 2511. In May, 1985, Plaintiff relocated to 6316 North Richmond, #3B, Chicago, Illinois, in anticipation of her children's return to stay with her, and where A&A, Tom and Carolyn Gemkow, and the Jewish community, through Judy Steinfink at 6316 N. Richmond, #3A, again impliedly agreed with the landlord to watch and invade Plaintiff's privacy.

5. Chicago Transit Authority ("CTA") is a municipal corporation, organized under the ordinances of the City of Chicago, authorized to do business and provide public transportation to the greater Chicago area, with its post office address at 222 Merchandise Plaza, Suite Seven North, Chicago, Illinois 60654, 312-664-7200; Law Department, 350 N. Orleans St., Suite 764, Chicago, Illinois 60654; 312-664-7200, x3298. CTA is liable for participation of its employees in the conspiratorial watch group, and infliction of harassment, hostility and emotional distress upon Plaintiff through its repetition of "lines" communicated through the "watch/stalking" group.

6. Donald L. and Sara Sturm Maddox, husband and wife, are individuals of Caucasian descent and color, citizens of the United States and residents of the State of Massachusetts, with their post office address at 37 Wildwood Lane, Amherst, Massachusetts 01002; 413-549-0445. Both Donald L. and Sara Sturm Maddox are individually liable for discriminatory conspiratorial acts damaging Plaintiff during her employment and residence in Chicago, her involvement in Chicago's Jewish community and her attendance at Northwestern University. Donald L. Maddox is a professor of old French literature, employed by the University of Massachusetts; Sara Sturm Maddox is a professor of Spanish, also employed by the University of Massachusetts (according to Plaintiff's last information).

7. Carolyn and Tom Gemkow, husband and wife, are individuals of Caucasian descent and color, citizens of the United States

and residents of the State of Illinois, with their post office address at 822 Robinhood Lane, LaGrange Park, Illinois 60525; 847-579-0176. Gemkows are individually liable for hostile, discriminatory acts of slander, rejection. indirect influence and harassment (opposition to involve-ment in Judaism and interference with Plaintiff's children), damaging and discriminating against Plaintiff on the basis of gender and religion (Gemkow's family is Catholic) from July, 1983 to date (race where "Jewish" considered a race). Carolyn Gemkow also impliedly participated in meetings with some "therapist" of Plaintiff's (Chaivetz is the last known therapist Plaintiff consulted; however, Esther Samber, by virtue of her involvement in Shusterman's shul, the Jewish community, acquaintance with Dan and Judd Azulay, mirror-imaging techniques in matchmaking, etc., has been implied to be the guilty "hidden" or "concealed" therapist acting to control these stalking events damaging Plaintiff's life, all without Plaintiff's knowledge and/or consent. It is Dan Azulay who told Plaintiff it was best that Plaintiff not know, impliedly regarding these organized theatricals and insults inflicted upon Plaintiff for the purpose of "changing" or "converting" her, all to Plaintiff's manifest emotional distress, mental anguish and all-encompassing despair.)

8. Richard Chaivetz (or Chaifitz) is a Jewish individual of Caucasian descent and color, a citizen of the United States, and practicing counseling psychology at Comprehensive Psychology Centers, 515 North State Street, Suite 2310, Chicago, Illinois 60610; (312) 595-4097. Chaivetz is impliedly liable for conspiratorial invasion of privacy, provision of psychological records and/or information without authorization, and for the organized stalking of Plaintiff in some sort of experimental psychology or "brainwashing" (abusive "teaching" methods) in conjunction with Chicago's Jewish religious community, all without Plaintiff's authorization, as stated in Paragraph 7 above.

9. Roseann Chasman is a Jewish individual of Caucasian descent and color, a citizen of the United States and a resident of the State of Illinois, with her post office address at 2604 West Jarvis, Chicago, IL 60645; (312) 764-4169. Roseann Chasman is individually liable for damages to Plaintiff by her participation in conspiratorial techniques to punish or change Plaintiff; Chasman told Plaintiff she was so perfect she had to find something wrong with Plaintiff, and inpliedly conspired with the Chicago Sun-Times to cause its defamatory

publication on November 10, 1985, the "Perfect 10" headline (which opposed Plaintiff's practice of Judaism or led to the opposition thereof as contrary to Jewish modesty, and which embarrassed and humiliated Plaintiff). Chasman explicitly opposed Plaintiff's attendance at Northwestern University.

10. Chicago Sun-Times, Inc. is a foreign corporation, authorized to do business in the State of Illinois, with its registered address at 401 N. Wabash, Chicago, IL 60611; (312) 321-3000 Attn: Sam McKeel, President, Joseph P. Gaynor, III, Secretary, David Radler, CEO, and conducting the publication and sale of newspapers at said location. Chicago Sun-Times is liable for unauthorized invasion of Plaintiff's privacy for purposes of publishing offensive messages to Plaintiff in its headlines which pertained to Plaintiff's private life for the purpose of intimidating, humiliating and inflicting emotional distress upon Plaintiff.

11. Harold Shusterman is a Jewish individual of Caucasian descent and color, a citizen of the United States, and a resident of the State of Illinois, with his post office address at 6227 North Albany, Chicago, IL 60659; (312) 764-0347; 764-6480, and performing the service of Rabbi at B'nei Ruven Congregation, 6350 N. Whipple, Chicago, Illinois. Plaintiff was "referred" to Shusterman by J. Daniel Azulay. Shusterman is liable for advising and directing the actions of the Azulays and possibly their other employees with respect to abusive "teaching" methods inflicted upon Plaintiff while "on-the-job" ("pay-for-it" schemes), which constitute(d) discrimination on the basis of gender, race and religion and adversely affected the conditions of Plaintiff's employment.

12. Yeshiva Migdal Torah ("YMT") is an orthodox Jewish school for men and women, designed to assist secular Jews return to the orthodox practice of Judaism, with its principal address at 2726-28 West Pratt, Chicago, IL 60645; (312) 465-7600, and engaged in the provision of private classes for men and women and for men and women separately. Rabbis Aharon Levitansky and Avrohom Alter, individuals residing in the greater Chicago area, are deans of the Yeshiva. Plaintiff was referred to YMT by Y. Judd Azulay. YMT is liable for its group intimidation of Plaintiff through "conversion techniques" and/or indirect teaching methods or blackballing opposition which adversely affected the conditions of Plaintiff's employment and home by network invasion of

privacy through conspiratorial "watch" or "stalking" of Plaintiff in order to pressure Plaintiff to change or to monitor Plaintiff's practice of Judaism, all without authorization by Plaintiff. Payment of dues or membership does not authorize practices of which the member has no knowledge or which the "theocracy" deliberately conceals from the knowledge of its members or students (Plaintiff). For example, during Plaintiff's absence from her apartment at 6316 N. Richmond, Chicago, a rabbi wrote "ben haRav" on a copy of Plaintiff's conversion certificate (which was really a "return to the source" certificate) which was stored in a locked steel cabinet together with the original; the person who signed the copy of the original, which was not displaced, had to have had a key to the cabinet; Plaintiff was given only one key for same at the time of purchase in November, 1985, while in the company of Miriam Bernstein, who may have the alternate key, or the store may have retained the duplicate key.

13. Chabad House International, Inc. ("Chabad") is a religious organization with its headquarters address at 770 Eastern Parkway, Brooklyn, New York, and with its Chicago regional office at Lubavitch Chabad of Illinois, 2833 W. Howard, Chicago, IL 60645; (312) 262-2770; Attn: Daniel Moskowitz, Regional Director. Plaintiff's conversion ceremony apparently placed her under the aegis of this theological group, although Plaintiff does not adhere to its ultra-orthodox precepts and should not be forced to practice same because Judaism does not require a Jew to do so.

14. Moshe's New York Kosher Sausage, Inc. is a kosher grocery store, licensed to do business in Chicago, Illinois, and located at 2900 West Devon, Chicago, Illinois 60645 (312) 338-3354, Attn: Moshe, President: Farhad Natanzi, Secretary: Alfred Aghaiepok. New York Kosher is liable for damaging Plaintiff by its participation in the conspiratorial watch and stalking of plaintiff via the telephone network (conversion techniques, the Shusterman "deal" (referred to as emotional abuse by a Spertus College of Judaica conservative [rather than orthodox] student)) inflicting emotional distress, pressure to conform or change, and threatening deprivation of Plaintiff's liberty and property interests through group invasion of privacy and humiliating and terrorizing public broadcast of quoted verbatim words and phrases found in Plaintiff's apartment during her absence and/or obtained through wiretapping or eavesdropping upon private conversations over the phone

within the privacy of Plaintiff's home. Plaintiff was "referred" to New York Kosher by Gladys Azulay.

15. Kol Tuv Kosher Foods, Inc. is an Illinois corporation, organized and existing by virtue of the laws of the State of Illinois, with its principal business address at 2938 West Devon, Chicago, Illinois 60645; its registered office at 5005 West Touhy Avenue, Skokie, IL 60077-3548, (312) 764-1800; Attn: Chaim Knobloch, and engaging in the kosher grocery business at that location. The store is liable for the damage of Plaintiff by and through its employees who participated in the telephone network, watching and stalking Plaintiff, invading her privacy and inflicting severe emotional distress upon Plaintiff, terrorizing Plaintiff, by public stalking and quotation of private writings or conversations of Plaintiff's. Kol Tuv Grocery is also implicated in the interception and theft of Plaintiff's mail, directed to her address at 6419 N. Richmond, Chicago, Illinois 60645.

16. Dominick's Finer Foods, Inc. is an Illinois corporation, incorporated under the laws of the State of Illinois, with its principal address at 333 North Northwest Avenue, Northlake, Illinois 60164; (847) 562-1000; Attn: Tom Roti, Director, Legal Department; with its registered agent, Prentice Hall Corporation, and its registered address at 33 North LaSalle St., Chicago, IL 60602; Robert A. Mariano, President, 505 Railroad Ave., Northlake, IL 60164. Dominick's is authorized to do business in the state of Illinois and engages in the grocery business at Pratt and Kedzie, Broadway and Clark and Foster and Devon, Chicago, Illinois. Dominick's is liable for subjecting Plaintiff to public baiting and humiliation at those locations as part of the Shusterman "deal", subjecting Plaintiff to severe emotional distress about her private life, participation in invasion of Plaintiff's privacy, the phone network following Plaintiff everywhere, punishing and baiting her to find out what her "change" was when there was none. (Similar incidents and questions in Columbia, Missouri stores, Schnuck's -- saying Plaintiff's "change" was to 66 cents (the nasty Phillips 66 gas station fill-up insult again) and Nowell's, asking what Plaintiff's change was; when Plaintiff complained to Schnuck's management, the manager named Scott told her they'd better forget the whole "deal," admitting the clandestine, behind-the-back knifing in the back of Plaintiff without those at the store understanding the insult to Plaintiff, while those directing the insults certainly did know

same. Direct communication is the only proper mode; indirect communication is a curse.)

17. Osco Drug Stores, Inc. is a subsidiary of American Stores Co., a foreign corporation with its principal address at 709 East South Temple, Salt Lake City, Utah 84102; (801) 539-0112; Attn: Dick Davis, President, Osco and Savon Stores, its Chicago business address at 1818 Swift Drive, Oak Brook, IL 60522, its registered agent C T Corporation System, 208 South LaSalle St., Chicago, IL 60604, and authorized to do business in the State of Illinois and engaging in the drug and novelty store business at Mozart and Devon, Chicago, Illinois. Osco is liable for damaging Plaintiff by its participation in the conspiracy to watch, stalk and harass Plaintiff by advertising techniques (stuffed animals, attempting to cause Plaintiff to change her Hebrew name - vulgarization of the name "Chaya"), by invasion of privacy and repeating private writings and/or conversations of Plaintiff in public, embarrassing, humiliating and terrorizing Plaintiff by the "brainwashing" overpowering techniques of this telephone watch group. The Osco organization impliedly cooperated with Chaivetz and/or Samber in infliction of unauthorized and unwanted psychological "medicine" (treatment?) upon Plaintiff through conspiratorial "calls back" wherever Plaintiff traveled or shopped for the purpose of inflicting these upsetting and pervasive baiting and insults upon Plaintiff, terrorizing Plaintiff by the very fact of the pervasiveness, constantly advertising invasion of Plaintiff's privacy without her consent.

18. Ann Darke is a Jewish individual, a citizen of the United States and a resident of the State of Missouri, with her post office address at 110 Morningside Drive, Kansas City, MO 64113; (312) 333-8206. Darke is an attorney and individually liable for damages to Plaintiff who reported to Darke as manager of the Advanced Underwriting Department of Mutual Benefit Life Insurance Company (MBL) where Plaintiff was employed from May, 1978 to July, 1981. [Successor in interest to MBL is Fortis Benefits Ins. Co., an insurance company with its principal place of business at 500 Bielesberg Drive, Woodbury, MN 55125 (612) 738-4006, with a branch office at 2323 Grand Avenue, Kansas City, Missouri 64113, where (2345 Grand) MBL was located until its demise several years ago.] Darke retaliated against Plaintiff for attempting to enforce her right to work free of discrimination on the basis of gender and religion in 1980 by probation and non-

communication; Darke further spread a rumor that Plaintiff had a drinking problem in order to "excuse" Plaintiff's attempt to obtain redress for grievances against Manuel Andrade who had attacked plaintiff on the basis of gender and religion, when Plaintiff did not then and has never had a drinking problem. When Plaintiff began searching for another job, Darke accused her of playing games which was untrue. Darke has further damaged Plaintiff by giving bad references to attorneys and insurance company professionals from 1980 to date.

19. Manuel A. Andrade, Jr., is an individual of Caucasian descent and color, a citizen of the United States and a resident of the State of Kansas, employed by Prudential Preferred Financial Services, in its office at 7101 College Road, Suite 1000, Overland Park, KS 66210-1891; (913) 451-4488. Andrade is an attorney and individually liable for damaging Plaintiff with sexual harassment and discrimination on the basis of gender and religion while Andrade and Plaintiff were employed at Mutual Benefit Life Insurance Company, Kansas City, Missouri, during 1980.

20. Irene Nathan's Matchmaking Service is a dating service organized and operated by Irene Nathan and Esther Samber, with its principal place of business at 6300 North Albany, Chicago, Illinois 60659; (312) 743-8421. Nathan and Samber are members of Shusterman's shul (B'nei Ruven) on North Whipple, Chicago, Illinois. Nathan resides at 6300 North Albany, Chicago; Samber resides at 6247 North Richmond, Chicago, Illinois. The matchmakers are impliedly liable for infliction of emotional distress through stalking in public (insulting "lines" plus insulting mirror-imaging threats) and improper matchmaking (sexual harassment) on the job, adversely affecting the conditions of Plaintiff's employment. Nathan further insulted Plaintiff by telling her that Plaintiff needed "Elmer" as if Plaintiff were a "cow." (Another example of the B'nei Ruven insults furthered by Nancy Ryan at LB&B).

21. Chicago Rabbinical Council ("CRC") is a religious organization, located in and providing religious instruction and a rabbinical court in the State of Illinois, with its principal office at 3525 West Peterson. Chicago, Illinois 60659; (312) 588-1600; Attn: Israel Fishweicher, Chief Rabbi. The CRC is impliedly responsible for opposition to Plaintiff's practice of Judaism, and for subjecting her to

insulting mirror-imaging and infliction of improper "psychological 'medicine'" upon Plaintiff. The CRC is also impliedly responsible for the slander and false rumor that Plaintiff has been involved with some black man which is totally untrue of Plaintiff.

22. Lord, Bissell & Brook ("LB&B") is a law firm organized under the laws of the State of Illinois, and engaged in the practice of law at 115 South LaSalle Street, Chicago, IL 60603; (312) 443-0700; Attn: Managing Partner, c/o Jean Bouslog, Personnel Director. Plaintiff was employed at LB&B from August, 1986 to November 13, 1987, during which time Plaintiff was subjected to constant harassment and discrimination on the basis of gender, race and religion, by groups ("fighting Irish") opposed to Plaintiff's practice of Judaism. Such hostile conditions adversely affected Plaintiff's ability to perform her job, caused attorneys to avoid giving work to Plaintiff, and resulted in Plaintiff's termination from employment. Kathleen Peel of LB&B referred to such hostility toward Plaintiff as the deliberate "humbling" of Plaintiff (male overpowering domination and forced subservience). The invasion of privacy accomplished and agreed to obviously adversely affected the terms and conditions of Plaintiff's employment and alienated her from her children.

23. Mina Harrison is an individual of Caucasian descent and color, a citizen of the United States, a resident of the State of Massachusetts, and an attorney practicing law with her principal office at 35 Vernon Street, Northampton, MA 01060; (312) 586-5546. Harrison is individually and professionally liable for damages to Plaintiff because of her misconduct of the child support modification proceeding in the Northampton Superior Court in the summer of 1987 and failure to fight for increased child support in 1983. Harrison's conduct constituted reckless disregard to Plaintiff's rights to due process of law and to a voice in decisions regarding herself and her future.

24. Chicago Police Department is a department of the City of Chicago, State of Illinois, and engaged in the service of enforcing the laws of the city and protecting its citizens. Its principal office is located at 1121 South State, Suite 400, Chicago, IL 60605; (312) 747-5501; Attn: Matt Rodriguez, Superintendent. The Department is liable for damages to Plaintiff because of its failure to provide her with equal protection, primarily by its failure to respect Plaintiff's calls for assistance against stalkers, theft, vandalism, assault and battery and

invasion of privacy at home. Such failure to make reports, to establish the regular pattern of stalking required by local authorities, to do the jobs the police are hired to do, constituted discrimination against Plaintiff on the basis of gender and religion, insulting Plaintiff as if she placed a call only to "meet a man," or as if residing in the Jewish community disentitled her to protection because of Jewish separatism, both of which were completely untrue. And the police had no right to draw such false conclusions and neglect their duty to report Plaintiff's claims. Further, when Plaintiff's daughter, Margot Justine Maddox, was missing during the latter part of 1988, Plaintiff believes the police knew where she was and failed to advise Plaintiff; she was located in a pot-infested tenement at Glenwood and Devon, Chicago. Prior to her "departure," Margot implied communications between her and Plaintiff's employers, indicating her displeasure with the supervisor of Plaintiff named Edie Cahill at Touche Ross & Co. during the first quarter of 1988.[1] Police officials have recently indicated their failure to believe Plaintiff's complaints regarding stalking and invasion of privacy, which is a conclusion they have no right to make.

25. Dardick & Denlow ("D&D") was a lawfirm organized under the laws of the State of Illinois, and practicing law in the City of Chicago, with its principal office at 737 North Michigan, Chicago, Illinois, during 1989-1991 while Plaintiff was employed there; Plaintiff was assigned to assist Rick Jones and Stuart Gimbel, both attorneys and individuals, citizens of the United States residing in the greater Chicago area, with their paralegal/clerical matters. Nathan Dardick is a Jewish individual, and an attorney now practicing law with an office at 30 South Wacker, Chicago, Illinois 60606; (312) 207-2400. Richard C. Jones, Jr.,

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[1] Plaintiff was subjected to demeaning and insulting sexual harassment at Touche Ross Co. by Robert Cooper, to whom she reported, and whose animus was to cause Plaintiff to change her name (Cooper leaned over Plaintiff's desk making animal grunting noises while flapping his credit cards at Plaintiff, insultingly and suggestively). In response to such pressure, plaintiff has been named Dina Yocheved in addition to "Chaya." The Chabad organization and other Jews (Shelly Adler, 2828 W. Coyle, Chicago) were/are impliedly involved in these pressures.

and Morton Denlow, partners of Dardick & Denlow, now defunct, are also individuals of Caucasian descent and color; Jones is practicing law in the City of Chicago, Morton Denlow is a Magistrate Judge at Dirksen Federal Building. Nathan Dardick, Morton Denlow, Richard C. Jones, Jr., and Cheryl Lorek, an individual of Caucasian descent and color, employed as Senior Secretary at Dardick & Denlow, and residing in the greater Chicago area, are individually liable for damaging Plaintiff during said employment by humiliation, discrimination, hostility and harassment on the basis of gender and religion, which discrimination resulted in Plaintiff's termination in February, 1991. During the time of Plaintiff's employment at D&D, Plaintiff resided at 6419 North Richmond, where an implied agreement between D&D and Cagan's Management Group or tenants of the building existed regarding the "watch" and invasion of Plaintiff's privacy.

26. Elaine Gothelf is a Jewish individual, a citizen of the United States, and residing at 500 West Rand Road, Arlington Heights, IL 60004; (847) 870-0533. Gothelf is individually liable for damaging Plaintiff by discriminating against her on the basis of race and religion, while supervising Plaintiff's employment at B. Angell & Associates from August, 1991 to March, 1992. Gothelf participated in the same rumor-mongering, harassing, slandering telephone network participated in by Maria Duron of A&A, Nancy Ryan of LB&B, and Cheryl Lorek of D&D. Said network watched and stalked Plaintiff, quoting in public private writings and/or conversations of Plaintiff, invading Plaintiff's privacy and terrorizing her with constant abuse and criticism. Again, an agreement between Gothelf, Joseph Adler, B. Angell and Cagan's (or tenants of Plaintiff's apartment building) and/or Yeshiva Migdal Torah or the Chabad House group impliedly existed regarding the "watch", "stalking" and invasion of Plaintiff's privacy during Plaintiff's employment at B. Angell & Associates. Gothelf repeated the motive of the telephone network saying she "had to find something wrong with it" (the conversion certificate, Plaintiff's entire mode and manner of living, anything whatever about Plaintiff, in order to oppose Plaintiff's acceptance by the Jewish community and practice of Judaism, and to degrade Plaintiff's "perfection" or outstanding past scholastic, musical and personal history). Gothelf's attitude toward Plaintiff caused the termination of Plaintiff in March, 1992.

27. Northwestern University is a university, authorized to engage in the higher education of students in the State of Illinois, City of Evanston, with its principal office located at Rebecca Crown Center. 633 North Clark Street, Evanston, Illinois 60208. Attn: Amy Mayber, Assoc. General Counsel, Office of General Counsel; (847) 491-5605. N.U.'s Administration, Library, Student Health, Vogelback Computer Center, Arnold Weber, President during 1993-94, and Fran Adams, Receptionist at the President's office, summer, 1994, are individually and officially liable for damaging Plaintiff with slander, libel, conspiratorial stalking, invasion of privacy, harassment and discrimination on the basis of gender and religion during plaintiff's attendance at N.U. as a graduate student in 1992-93.

28. Kinko's Inc. is a foreign corporation, with its registered agent, C T Corporation System, and registered address at 208 South LaSalle Street, Chicago, Il 60604, and is authorized to do business and engaging in the provision of copy services in Chicago, Illinois, with its regional business office at 440 North Wells, Chicago, Illinois 60610, (312) 321-1741; Attn: Greg Melheim, President, Chicago Region; Daniel Frederickson, President, 5984 Bridgeview Dr., Ventura, CA 93003. Kinko's is liable for damaging Plaintiff by stalking and humiliation by and through its employees who followed Plaintiff to N.U.'s Vogelback Computer Center, harassing her during Plaintiff's efforts to complete scholarly projects. The stalkers were cooperating with an unnamed tenant(s) (tall, blond Nordic guy) at 6421 N. Richmond, next-door to Plaintiff's apartment, in the conspiratorial watch, stalking and verbal assault of Plaintiff, invasion of her privacy, theft of intellectual property, defamation of Plaintiff's academic ability, and threatening Plaintiff with deprivation of credit for her academic achievement and defaming Plaintiff with slander and implication of "guilt by association" moral turpitude.

29. Cagan's Management Group, Inc. (Owners and Tenants of 6419-6421 North Richmond Building, Chicago, Illinois) is an Illinois corporation organized under the laws of the State of Illinois, authorized and engaging in the business of real estate management, with its principal place of business at 8105 Skokie Boulevard, Skokie, IL 60077; (847) 679-5512. Attn: Michael Daniels, Manager; its registered agent is Larry Chambers, 500 W. Madison, Suite 2910, Chicago, IL 60661. Unnamed tenants at the apartment building, 6419-21 N. Richmond, Chicago,

Illinois, cooperated with Cagan's in its constructive eviction of Plaintiff over several years with privacy invasion and collaboration with the stalking, watch group, all of which became unbearable in 1993 after the attack by car by Vakser and terrorization by the screaming in front of the building by the blond Nordic who followed Plaintiff to campus with threats of computer tampering and damaging her ability to continue graduate study. In addition, the management of additional buildings where Plaintiff has resided while employed in Chicago: 5630 N. Sheridan Road, 6316 N. Richmond, 6147 N. Mozart (Edward Stern), and also, the realtors managing the property at 5936 N. Berkeley, Milwaukee, Wisconsin, who may have cooperated with the investigation of Plaintiff and invasion of her privacy while still in Milwaukee in 1983; said realtors were acquaintances of Keith and Dee Miller, Plaintiff's initial employers in Milwaukee. The management of each and every one of these buildings where Plaintiff rented housing from 1981 to date impliedly agreed with Plaintiff's employers to investigate Plaintiff and invade her privacy without any authorization by Plaintiff, stalking and watching Plaintiff, and damaging her psychological well-being, peace of mind, and inflicting emotional distress upon Plaintiff equivalent to repeated and constant "rape" of her premises. Such home invasion adversely affected the terms and conditions of Plaintiff's employment and study and discriminated against her on the basis of gender and religion.

30. Christopher Herbert, Dean, College of Arts and Sciences, Northwestern University, is an individual of Caucasian descent and color, residing in the state of Illinois, and with his principal office as professor/dean at 1922 Sheridan Road, Evanston, IL 60208; (847) 491-7561. Herbert is individually and officially liable for damages to Plaintiff by verbal assault in class on November 24, 1992. Herbert is further implicated in the conspiratorial stalking and harassment of Plaintiff, in the assault by car upon Plaintiff on November 25, 1992, and in implied cooperation with the unnamed N.U. students and/or N.U. affiliates residing in Plaintiff's apartment building at 6419-21 North Richmond, Chicago, Illinois, who constantly invaded Plaintiff's privacy, collaborated with the newspapers (Chicago Tribune) to defame Plaintiff's speech given in class on November 24, 1992, and discriminated against Plaintiff on the basis of gender and religion, stigmatizing Plaintiff and blacklisting her from further graduate study toward the Ph.D.

31. Chicago Tribune Company is an Illinois corporation, organized under the laws of the State of Illinois, authorized to do business in the State of Illinois, and engaging in the publication and sale of newspapers, with its principal place of business and registered office located at 435 North Michigan, Chicago, IL 60611, (312) 222-3232, Attn: Stanley J. Grodowski, President; Jack Fuller, CEO. Larry Townsend, Editorial Department, is responsible for headline selection and article placement during the relevant time periods complained of herein; such headlines and articles were calculated to inflame hostility and hatred of those opposed to Plaintiff's practice of Judaism and/or participation in the Jewish community.

32. Leo Vakser is an individual of Caucasian descent and color, a citizen of the United States, and, according to Plaintiff's last information, residing at 6437 N. Trumbull, Lincolnwood, IL 60645 (service obtained by mail to Vakser and c/o Mrs. Kelly Wells-Dudka, State Farm Insurance Co., 1045 S. Des Plaines Ave, Forest Park, IL 60130; their file No.: 13-4565-666. [Their offer of $1500 in settlement is an insult which reflects merely what State Farm owes Plaintiff because of the attack by John Walsworth on January 18, 1995.] Vakser is individually liable for damage to Plaintiff because of attack upon her by car on November 25, 1992, which adversely affected Plaintiff's home and educational environment, by and through the conspiratorial stalking and harassment of Plaintiff, the gang warnings prior to the attack by Vakser, threatening and warning Plaintiff (a) that she (the A student) was the next to die, (b) that she was setting herself up to be a victim (said Felice McEuen [Even], 620 W. Belmont, Chicago, (312) 472-7585 (1995 phone book), of Pat Stevens Employment Agency, dba Patricia Stevens, Ltd., (27 E. Monroe, Chgo, 312-726-3030, 1995 phone book)), and (c) that her skills were killing (McEuen's supervisor). A Claim for Crime Victim Compensation was filed under the direction of Dave Sopata, of the State's Attorneys' Office, in January, 1994; however, plaintiff was never advised of the outcome of any investigation said office should have conducted against Vakser and the police department and is therefore negligent in its duty so to do. In addition, the Illinois State's Attorney's Office, a governmental instrumentality created under the laws of the State of Illinois, is negligent in its conduct of the Victim's Witness Assistance division which failed to report the results of investigating the constructive eviction of Plaintiff from 6419 N. Richmond, Chicago, in

December, 1994. Plaintiff reported the conditions to and discussed them with a woman named Jackie of that office, which was constantly lacking in concern for the situation and interested only in giving Plaintiff a lesson in telephone manners.

33. Janet Kuhn, DDS, is an individual of Caucasian descent and color, a citizen of the United States, and a dentist, practicing dentistry at 3525 West Peterson, Chicago, IL 60659; (312) 588-2100. Kuhn is individually liable for damages to Plaintiff because of Kuhn's participation in the conspiratorial invasion of privacy, watch and stalking of Plaintiff, interference with Plaintiff's decision to study at NU, and failure to provide badly needed dental services during the spring of 1993. Kuhn's participation in the conspiracy is connected with that of the CRC and their implication of Plaintiff's involvement with some black man which is totally untrue of Plaintiff. Rather than concentrate upon the provision of the needed dental services, Kuhn was distracted with lines she quoted from private conversations Plaintiff had with Professor Christopher Herbert, terrorizing Plaintiff with fear of those overpowering her with constant, community-wide, pervasive invasion of privacy, stalking and harassment, yet alleging things totally untrue about Plaintiff's life, twisting the content of any "discoveries" made.

34. Dist. 203 New Trier High School is a school district organized and existing under the laws of the State of Illinois, engaging in the education of high school students in Winnetka, Illinois, with its principal place of business at 7 Happ Road, Northfield, IL 60093; (847) 446-7000; Attn: Dr. Henry Bangser, Superintendent. Plaintiff was employed as a substitute teacher at New Trier High School in Winnetka on January 7 and February 15, 1994. Both of such assignments were sabotaged by stalking and verbal assault, including theft of Plaintiff's driver's license on February 15, 1994. Plaintiff was also subjected to conspiratorial slander at the school, by students and teachers, hostilely attacking Plaintiff because of her religion with no provocation by Plaintiff whatsoever, and discriminating against Plaintiff on the basis of gender and religion.

35. United States Post Office (Chicago/Evanston Postmasters) is a creature of the country of the United States, authorized and organized to distribute the U.S. Mail in Chicago and Evanston, Illinois, with its principal place of business at 443 West Van Buren, Chicago, Illinois 60607 Attn: Rufus F. Porter, District Manager/

PostMaster, and at 1101 Davis, Evanston, Illinois 60604. From 1983 to date, Plaintiff's mail has been interfered with and privacy invaded by those conspiring with her apartment managers, impliedly between Plaintiff's employers, apartment managers and post office employees, for the purpose of perusing the mail, damaging Plaintiff with misrepresentation and misinterpretation of her private writings, and inflicting quoted material from the mail upon Plaintiff in public in order to terrorize Plaintiff with the corrupt abilities of the stalking group watching Plaintiff's every move. In addition, post office employees at the Evanston post office terrorized Plaintiff about defaming her academic references with the letter "R" (MRs. or some "open-legged" female) rather than respect for Plaintiff as an individual, independent scholar and person unavailable for such indiscreet and/or promiscuous, public and/or illegitimate sex. Plaintiff's psychological well-being. future as a scholar and/or worker has been adversely affected by such invasion of privacy and interference with the U.S. mail, including a bad credit rating because of her non-receipt of bills.

36. Northwestern Memorial Hospital (NMH) is a hospital organized and existing under the laws of the State of Illinois, providing hospital services in the City of Chicago, and with its principal place of business at 240 East Ontario. Suite 500. Chicago, IL 60611; (312) 908-2900. Attn: Liz O'Kelly, Senior Associate General Counsel. NMH is liable for damages to Plaintiff because of its "certifying" Plaintiff into its Psych Ward against her will in February, 1995, after an argument with its "half-way" boarding house staff, where Plaintiff had been sent after her car had been impounded. [Plaintiff was homeless and "living out of her car," using restrooms of fastfood establishments for personal hygiene.] The "certification" was wrongful, unnecessary, and the result of failure to correct employees who abused Plaintiff. Plaintiff told the NMH doctors that she was being harassed because of the lawsuit filed herein and the approval of the disability application, which they again failed to credit because of the improper motive of protecting employees who had made a mistake and should have been reprimanded.

37. Chicago Read Mental Health Center is a medical center, organized and existing under the laws of the State of Illinois, providing mental health services in Chicago, Illinois, with its principal place of business at 4200 N. Oak Park Avenue, Chicago, IL 60634; (312) 794-4000. Attn: Mary Hamre, Legal Director. After one week at NMH,

Plaintiff was sent to Chicago Read Mental Health Center because Plaintiff refused to take medication she did not need which was the proviso for her "staying" at NMH. Additional indignities and refusal to respect Plaintiff's rights to liberty were inflicted upon Plaintiff at Chicago Read, which is officially liable to Plaintiff for depriving her of a liberty interest and inflicting severe physical and emotional suffering upon Plaintiff, humiliating and punishing her because of complaining about criminal indecent exposure of an inmate, punishing Plaintiff with involuntary confinement and an unnecessary shot. Plaintiff continues to be outraged to have had to be forced to submit to such unwanted and unnecessary "medication." Plaintiff's rights were grossly and wrongfully violated by failure of the nursing staff and doctors to respect Plaintiff's ability and self-knowledge, wrongfully inflicting "medication" and "treatment" upon her which she did not need, all in the effort to justify their unneeded psychological malpractice and wrongful "certification" of Plaintiff into this psych ward. Plaintiff was released by court order, although her family would prefer to defame Plaintiff with such "commitment" rather than provide the emotional support and temporary physical shelter Plaintiff required. (Amdur's report is impliedly directly related to these wrongs via "inside" information which the hospitals sought to corroborate on false grounds.)

**Class of persons conspiring to harass plaintiff by invasion of privacy (trespass), slander, character defamation, libel, verbal assault and rumor-mongering, prevention of employment , of achievement and of ability to guide and counsel children of plaintiff and defendant Donald L. Maddox, and by stalking practices.

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OPINIONS BELOW

Petitioner respectfully requests that a writ of certiorari issue to review the judgment below.

The order of the U.S. Court of Appeals for the Seventh Circuit order affirming the district court's dismissal is contained in the Appendix filed with this petition.

The memoranda and orders of the district court and the report and recommendation of the magistrate judge assigned to review the case are also contained in the Appendix filed with this petition.

JURISDICTION

The U.S. Court of Appeals for the Seventh Circuit decided my case on September 2, 1997. The jurisdiction of this Court is invoked under 28 USC § 1254(1).

The U.S. District Court for the Northern District of Illinois decided my case on January 28, 1997, and notice of appeal was timely filed on February 10, 1997. Appeal was filed "as of right" under Rules 3 and 4 of the Federal Rules of Appellate Procedure.

Jurisdiction of the district court was invoked under 28 USC §§ 1331, 1332, and 1343. The proceeding is authorized by the constitutional right to freedom of speech and religion, the right to life, liberty and property, to the due process of law, to the equal protection of the law, to privacy, to employment, housing and education free of harassment and discrimination on the basis of gender, race and religion. Diversity of citizenship of the parties to the action exists and the matter in controversy exceeds, exclusive of interest and cost, the sum of $50,000. Plaintiff claims actual damages in the amount of $400,000 or more, compensatory damages in the amount of $200,000 (increasing as time goes by without relief), rent overpayment of $75,000 (also increasing), and punitive damages in the amount of $2.5 million; however, leave is requested to amend these amounts upward when the extent of damages is more fully known. Plaintiff's claims allege

deprivation of her basic human rights to life, liberty and property, to a voice in decisions affecting her life, liberty and property interests, and conspiracy and concealment of activities depriving her of such rights.

CONSTITUTIONAL AND STATUTORY PROVISIONS

The constitutional right to freedom of speech and religion, to life, liberty and property, to due process of law, to equal protection under the law, and to privacy are basic human rights guaranteed by the Bill of Rights, Constitutional Amendments I, IV, V, XIII and XIV.

The Federal Criminal Code (18 USC §§ 241 and 245) provides implied private rights of action against conspirators (including aiders and abettors [18 USC § 2]) who act in concert to deprive any citizen of the United States of rights, privileges and immunities secured by the Constitution of the United States on the basis of race, sex, religion or national origin. Plaintiff's grievances stem from discrimination on the basis of religion, gender and race (not born of a Jewish mother) and are of special interest to the nation because "converts" ("turncoats") between Christianity and Judaism, although both religions comprise the same basic tradition and tenets of belief, suffer the hatred of both the former and latter "in" groups after "conversion" or transplant as "outsiders." The very foundations of our nation are being threatened by the wrongs of which plaintiff complains; our forefathers, "dissenters," established this country when fleeing religious oppression in England.

The Civil Rights Act of 1866 (42 USC § 1981, as amended), provides redress for the deprivation of rights, privileges and immunities secured by the Constitution of the United States, which deprivation was/is made on the basis of race (where Jew is considered membership in a "race" rather than a "religion", as descent from a Jewish mother), the denial of which constitutes a condition of involuntary servitude or objectification such that the victim has no say regarding the outcome of his fate -- current or future activities. Plaintiff complains of discriminatory harassment, stalking and trespass, constituting deliberate infliction of emotional distress, and prejudice which deprived her of her right to employment and to educational pursuits on the basis of race.

The Ku Klux Klan Act of 1871 (42 USC § 1983) provides redress for the deprivation, under the color of state law, statute, ordinance, regulation, custom, or usage (by state actors), of rights,

privileges and immunities (equal protection and privacy rights, and rights to practice religious freedom) secured by the Constitution of the United States. Plaintiff complains hereunder of the failure of the police to provide police protection against stalking, trespass and theft, of the postal service's cooperation with invasion of privacy of plaintiff's mail and postal employees' public verbal assault threatening plaintiff, and of the state's attorney's office failure to investigate battery and constructive eviction of plaintiff (1992-1994). Such deprivations were inflicted upon plaintiff because of her membership in the class of females and Jews.

The Ku Klux Klan Act of 1871 (42 USC § 1985) provides redress (a) for the conspiratorial deprivation (by private actors) of the equal protection of the laws or of the rights or privileges of a citizen of the United States and (b) for retaliation against attempts to enforce equal protection of the laws, and also provides for recovery of damages from injury to person and property resulting from such private conspiracy to deprive of equal protection, rights and privileges. Plaintiff complains under this statute regarding harassment, stalking and trespass, regarding the deprivation of rights to employment, to police protection, to practice of religion, to education at the level for which she is educated, and to pursuit of life, liberty and property interests free of such harassment, and seeks recovery of damages for injuries resulting from the denial of such rights.

Title VII of the Civil Rights Act of 1964 (42 USC § 2000e) provides redress for discrimination in employment and recovery of damages from injuries sustained because of discrimination on the basis of race, sex, religion or national origin. Plaintiff complains of harassment and hostile environment by several employers, of black-listing from the insurance industry, and of multiple terminations from employment because of discrimination on the basis of gender, race and religion.

The Age Discrimination in Employment Act of 1965 (29 USC § 621 *et seq.*) provides redress for discrimination in employment and recovery of damages from injuries sustained because of discrimination on the basis of age. Plaintiff complains of exclusion (termination as well as failure to hire) and failure to promote in several work environments, primarily Chicago lawfirms, due to discrimination on the basis of age (gender and religion).

The Fair Housing Act of 1968, as amended by the Fair Housing Amendments Act of 1988 (42 USC § 3601 *et seq.)*, provides redress for discrimination in housing and also provides for recovery of damages

from injuries sustained because of discrimination in housing on the basis of race, color, religion, sex, familial status or national origin (§ 3604). Plaintiff complains against Cagan's Management Group for their failure to take action against or for their deliberate causing of constructive eviction conditions in plaintiff's apartment building, conditions of trespass, eavesdropping, filth, verbal assault, computer tampering, stalking, theft and vandalism. Such conditions were perpetrated against plaintiff on the basis of race (not born of a Jewish mother), religion (Jewish), gender (female) and familial status (divorced with no children at home).

Title IX of the Educational Amendments of 1972 (20 USC § 1681, *et seq.*), the Women's Educational Opportunities Act of 1988 (20 USC § 3041, *et seq.*), and the Equal Rights Act of 1964 (42 USC § 2000d, as amended [sex or gender given equal weight to race]), provides redress for discrimination in employment and recovery of damages from injuries sustained because of discrimination on the basis of race, sex, religion or national origin. Plaintiff complains of discrimination, libel, slander, trespass, stalking and harassment at Northwestern University, and retaliation against her report of same by failure to admit her to further graduate study, although Plaintiff is a member of the highest academic honorary society in the land, Phi Beta, Kappa, and a *summa cum laude* graduate of Duke University. Such discrimination was inflicted on the basis of gender, age, religion and race.

STATEMENT OF THE CASE

On August 25, 1994, plaintiff *pro se* brought suit in the district court, complaining against multiple defendants of which Capitol Bankers Life is cited as the instigating catalyst, in a desperate attempt to obtain relief and remedy from continued stalking, harassment, discrimination on the basis of gender, age, race and religion, preventing her employment anywhere in Chicago or its environs and preventing her admission to graduate study as a Ph.D. candidate. The situation was then and continues to be one of gross discrimination resulting in plaintiff's being "buried alive" with no chance of pursuing life, liberty and property interests as assured by the constitution and laws of this country. The condition of bankruptcy has contributed to plaintiff's unemployment, while establishing proper credit is impossible because inadequate income

and continuing court costs. Several court-appointed attorneys withdrew from the case because of conflict of interest (association with defendants or their affiliates). Plaintiff opposed transfer of the case to the magistrate herein because of his conflict of interest. The district court, in adopting the magistrate's report and recommendation, focused primarily upon the criminality of statutes precluding private rights of action without suggesting appropriate alternative statutes under which plaintiff might complain in order to obtain relief and remedy. Plaintiff appeals the decision for the reasons that relief and remedy continue to be needed; without remedy, the intent of the laws of this country to protect victims from discrimination on the basis of gender, race and religion and to assure basic rights and freedoms -- speech, religion, due process of law -- is being ignored. A statement of facts follows.

In 1983, plaintiff suffered black-listing from employment in the insurance industry after a wrongful request to resign and constructive discharge on the basis of gender and religious discrimination at CBL. Prior to the request to resign by Nickerson, CBL employees (Nickerons, Ladwig, Carlson) intentionally inflicted emotional distress upon plaintiff and created a hostile environment by subjecting her to daily taunts and lewd innuendoes regarding sexual promiscuity and fantasy in which plaintiff would never cooperate (*e.g.*, Ladwig saying that plaintiff was Nickerson's car, an object to be driven, filled or used by some man; Carlson accusing plaintiff of "going to SHYtown because of Nickerson's "advertising" his interest in plaintiff (Chicago, where Nickerson's name is famous because of the family's ownership of the First Chicago Bank [plaintiff knew nothing about such a connection at the time]; Nickerson saying "she got me"). Nickerson accused plaintiff of resembling Molly Bloom in James Joyce's *Ulysses*, a sexist and religious slur (the character had sexual fantasies); attempted to intimidate and teach plaintiff that women had to cooperate with sexist manners, stereotypes and attitudes in order to facilitate communication on the job; caused the company to hire a male (Ladwig) to "handle" him (he was a political "staller") rather than plaintiff because of his sexist biases; and scandalized plaintiff by referring her to a religious adviser (Nichols) in order to "smooth over" the discharge with improper outside influences, including Nichols' implication that Nickerson was interested in a sexual encounter with plaintiff (euphemistically, "marriage," when already married to Fran); plaintiff had no such interest and considers married men off limits. The

insult was that feminists and religious people have no place in the business environment and should stay home.

Nichols told plaintiff that when people talk about money they mean sex, causing plaintiff to despair of sexless discussion of financial planning in a financial services industry. Nichols also told plaintiff he didn't believe that plaintiff could "handle it" because Nickerson "went around in groups," implying dishonest "cover up" or "face-saving" at the expense of innocent victims. The Nichols involvement confirmed Nickerson's conspiratorial intent to smooth over the discharge of plaintiff with improper outside influences. Multiple injuries resulted from the constructive discharge, including loss of income, deprivation to right of employment in the insurance industry, separation of plaintiff, the custodial parent, from her children, rejection by family members, character defamation, slander, harassment, trespass, stalking and theft. (iii- v)

Prior to the Milwaukee discharge, plaintiff had been subjected to sexual harassment and hostile environment on the job in Kansas City at MBL by Andrade who resented having to report to a female, Darke, who had been promoted rather than he to head of the advanced underwriting department. Plaintiff was in charge of the Coopers & Lybrand estate-planning computer program in the department. Andrade's character assassination of plaintiff, accusing her of being "holier than thou," and Darke's failure to reprimand same resulted in both Andrade's and plaintiff's leaving MBL. Plaintiff requested transfer to another department but was declined; when plaintiff sought resolution to the problem by conference with an officer of the company, Darke retaliated by placing plaintiff on probation and withdrawing communication. (Plaintiff did receive a raise and an admission from Darke that the probation was unfair, six months after the fact.) The hostile environment and hatred on the basis of gender and religion caused plaintiff to seek psychological help which referred to Andrade as a "snake in the grass." Plaintiff remained on anti-depressant medication afterward for 2-3 years, and was subsequently damaged by unwanted "interference" and bad advice of mental health professionals, whose counsel to be devious and manipulative plaintiff could/would not follow. Plaintiff's shock and depression resulted from the fact that she had never before been punished for fighting for "right" and despaired of succeeding by and through her usual honest and straightforward practices. (xi)

After the CBL firing and scandal (although untrue) coupling plaintiff with Nickerson, plaintiff's sister (Gemkow) refused shelter to plaintiff who wanted to continue her job search until suitable alternate employment was obtained. Gemkow contributed to the defamation of plaintiff by failure to assist her in time of greatest need and by scandalous remarks suggesting plaintiff's secret promiscuity which is totally untrue of plaintiff, but of which Gemkow was apparently persuaded by defamatory slander, cooperation with matchmaking efforts involving degradation of plaintiff to some promiscuous or impoverished level (in order to make some man feel needed), which plaintiff did not authorize, and which deeply hurt plaintiff. Gemkow has also been adversely influenced by and plaintiff damaged by the methods taught by "Tough Love", an organization in Elmhurst, Illinois, which advocates harsh and damaging, sometimes illegal tactics. (vi)

Plaintiff was forced to accept a job at lesser pay and to rent a studio apartment, inadequate to the return of her children. Her ex-husband (Maddox) refused to increase child support and a Massachusetts attorney insulted plaintiff with suggestions of taking Maddox if plaintiff would not. Said attorney failed to represent plaintiff with obtaining increased child support so that the children could remain with plaintiff. (v , xii)

Slander and defamation regarding the 1983 firing followed plaintiff to her job at A&A, the small lawfirm which hired her upon her relocation to Chicago. The partners of A&A, Dan and Judd, immediately began to make reference to the scandal, repeating the insulting metaphor of plaintiff as some car to be filled, used or driven by some man, implying conspiracy with those slandering and defaming plaintiff as an "egg" which had been "laid and shipped to the city" when plaintiff is innocent of any promiscuous conduct or sexual indiscretion whatsoever. The female employees of the office immediately opposed plaintiff because of her interest in Judaism, and created a hostile environment because they resented plaintiff's leaving early on Friday to observe the Jewish sabbath. The employees (Maria and Carol) did not "believe" plaintiff's interest or belief, but preferred to think instead that plaintiff had some ulterior motive which was untrue. Judd contributed to the hostility by insinuating a sexual interest between himself and plaintiff, slamming doors, causing Dan to say plaintiff would have to slap him, etc. Dan also threatened plaintiff by saying if she were that religious ("froomee") she could go back to being a temporary, that thinking was

not allowed, that they didn't want copies of ashes, that a conspiracy of concealment was underway by saying it was better that plaintiff not know, that "this way no one will ever know which one it is if his wife depended on it," causing plaintiff to fear being used as a decoy for someone else's indiscretions or improprieties with which plaintiff would never cooperate! (iv-v)

Judd and Mollison, an attorney affiliated with A&A, implied communications with Maddox, plaintiff's ex-husband, as the source of the belief that plaintiff wanted a husband to make her decisions when same is not true; Judd told plaintiff that he and plaintiff were "getting married" for that reason (plaintiff had never consulted with Judd about any such thing). [Such misinterpretation or misinformation regarding plaintiff was echoed by two Jewish men who followed plaintiff onto the CTA 155 bus in the spring of 1993, saying "we made the decision for you", admitting usurpation of plaintiff's rights without her consent, and frightening plaintiff by the admitted abuse of power by such groups.] Plaintiff merely wants decisions to be mutual, with agreements properly reached between those involved. Maddox has a motive to inflict emotional distress upon plaintiff by "turning the tables" of her and his marital history, and inflicting revenge upon plaintiff for both the marriage and the divorce. Maddox also threatened plaintiff with using the children as pawns to hurt her on the eve of the divorce. Maddox's cooperation with Chicago males is evident from "copies" (mirror-images) of him and of plaintiff's employers stalking plaintiff, from quotes of plaintiff's and Maddox's past history, from Chicago remarks swearing to "get even" (by reversing the facts pertinent to plaintiff's and Maddox's marriage - *i.e.*, Herbert's not wanting to marry, when Maddox did want to marry [although plaintiff was not considering Herbert in any such way because she considers professors/employers off limits), and from Maddox's admission of having people "hit on" plaintiff in response to plaintiff's query on May 17, 1993. (iv-vi)

Judd's wife contributed to the hostile environment at A&A by telling plaintiff she was worried about Judd's extramarital interests, but not if the girl was black (or not Jewish), asking plaintiff if she could take a hint (which plaintiff did not understand, relying instead upon direct and straightforward communication). Judd ultimately refused to communicate with and constructively discharged plaintiff.

The hostile office environment included theatrical demonstrations by Maria and Carol which threatened and embarrassed plaintiff,

including invasion of plaintiff's privacy and vandalization of her umbrella. These women were apparently consumed with an obsession to inflict knowledge of their promiscuous personal lives upon Plaintiff rather than concentrate upon performance of job duties. Invidious threats were imposed upon plaintiff at A&A by Judd, and at Bnai Ruven (Shusterman's synagogue) by female members, regarding "shots" given females who provoke male attraction, some sexual "medication", as if such intimidation and threat were part of the discipline of women not considered trustworthy or virtuous (same are abuses completely unwarranted by any of Plaintiff's behavior).

Throughout plaintiff's employment at A&A, it was apparent that a telephone network (Dan, Maria, Judd and Carol specifically) was being conducted which communicated about plaintiff without her knowledge or consent, and which cooperated with trespass of her private residences in cooperation with landlords, the Jewish community, mental health professionals and/or government sleuths, in order to inflict stalking/verbal harassment (second-hand smoke) upon plaintiff, which efforts were accomplished by stalkers and by CTA employees (buses (155, 147) and elevated train, Englewood/Dan Ryan and Ravenswood lines). (v)

From 1983-1994, plaintiff was subjected to constant stalking, slander and harassment on the CTA, where blacks implied plaintiff's "fall" into prostitution, common-law wifery (being kept) or bigamy, in which plaintiff would never participate; the stalking was for the purpose of preventing plaintiff from causing the "breakdown" of males sexually attracted to her, "teaching" or pressuring plaintiff to participate in out-of-wedlock sexual services or stay home. CTA employees taunted plaintiff with such remarks as "he's goin' to the yard; he won't ever return", "you have to BEE there", "I told her I was going to f___ her butt", "that was a bad order", together with headless female pornography with a cross superimposed over female genitalia, graffiti professing vagina envy, "BASE" with an upsidedown "A" with the intent of undermining the significance of A scholarship to scandal regarding professor-student favoritism or sexual indiscretion, "FL4ME2X", stalking by blonds professing plaintiff to be the "center of evil" causing male breakdown on the job due to sexual attraction, a youth picking up and holding a ferret's genitals in plaintiff's face, saying "it's somebody's pet and they're pickin' it up at Davis," (Davis and Foster were the stops with the lewd graffiti), and Nordic types holding their legs apart in lambda formation, a sexual

"come-on." During 1992 and all of 1993, the stalking on the CTA included tenants residing in plaintiff's apartment building at 6419 North Richmond.

The stalking, baiting and harassment through the telephone network "watch group(s)" extended to Osco Drug store, Dominicks, New York Kosher and Kol Tuv grocery, where egregious provocation occurred with lewd comments constantly accusing plaintiff of indiscretion and indicating that plaintiff should never set foot outside her home. The Osco drug store pharmacist indicated complicity with some "doctor" of plaintiff's, Maddox or Richard Chaivetz, whose records have been impliedly shared with those stalking and inflicting the constant emotional distress upon plaintiff with twisted scenarios and remarks about plaintiff's former history, family and marriage, with the ostensible purpose to change, teach, convert, test, manipulate or discipline plaintiff against her will ("brainwashing"), and/or about which opponents to plaintiff's practice of Judaism, including Gemkows, Irish groups, etc., have inflicted constant mental cruelty and emotional distress upon plaintiff in order to force her to abandon the practice of orthodox Judaism, to submit to excesses not required by basic Judaism, or to tolerate the abuses of mental health practitioners who have ruined every relationship plaintiff has ever had. Opponents preferred to believe plaintiff mentally ill rather than sincerely interested in Judaism, excusing the interest as some "prescription" by a shrink (Chaivetz). Communications with plaintiff's ex-husband or invasion of his psychological/medical records is another probable source of the breach of confidentiality, especially since Maddox admitted cooperating with offensive, harassment-type "matchmaking" in order to shame plaintiff, who he knew would be upset and humiliated by such improprieties. The harassment and stalking implied coercion or pressure to cooperate with bigamous liaisons, such that a woman might be involved with more than one man, an adulterous act confusing paternity which is no proper Jewish woman would commit and is a slap in the face to Jews. As a direct result of these facts, plaintiff has suffered extreme upset and humiliation, often been reduced to tears on the CTA, and stigmatizing defamation.

The A&A communications involved counsel with rabbis, to whom Dan and Judd had both referred plaintiff in connection with her interest in the study and practice of Judaism. Judd admitted that there was a mastermind in charge of theatrical mirror-imaging, "smoke screen" baiting and stalking episodes, and Harold Shusterman was the implied

mastermind of all these distressing events, including conditions leading to sexual harassment in the office of an ob/gyn, which were inflicted upon plaintiff with the intent to distress and upset her, to "test" her knowledge of Judaism, or to "pressure" her never to go to any doctor not first approved by the rabbi. Any such directives by the rabbi could and should have been communicated to plaintiff directly rather than subjecting her to heinous, humiliating public insults. Shusterman gave plaintiff bad advice on which she relied, to wit: to stop complaining, when plaintiff should have been screaming bloody murder about the wrongs! Trespass and violation of plaintiff's privacy was also brought to Shusterman's attention; plaintiff found a copy of a conversion certificate (really a "return to the source" certificate) signed in pencil by a "ben haRav" (son of the rabbi) inside her locked steel cabinet, evidencing the fact that someone other than plaintiff had access to the cabinet. The cabinet had been purchased by plaintiff while in the company of another Shusterman advisee, Miriam Bernstein (a Filipina nurse); the office supply store only provided one key to plaintiff, who suspects that either the store, Bernstein or Shusterman has the other key. Evidence of such trespass and invasion of privacy of course unnerved plaintiff who never agreed to any such "rape" of her premises. Shusterman also was the initial source of nasty remarks about women or men as "dogs" because of undesirable behavior; Plaintiff believed that he had been misunderstood; however, he is the implied instigator of "deals" (for a 'hand') which are responsible for inflicting the unauthorized mirror-imaging and/or teaching practices upon plaintiff and poisoning her work environment. (iv-x)

The Chicago Rabbinical Council, Shusterman, Chabad House organization, etc., shamed plaintiff by implying her promiscuous behavior or association with some black man which is not true. On November 10, 1985, when plaintiff visited the Chicago mikvah for the conversion ceremony, the *Chicago Sun-Times* published a headline ["Perfect 10"] memorializing and defaming the event by implying lewd voyeurism at the ceremony which impugns Jewish modesty. About publication generally, Judd said that the purpose was opposition (to plaintiff's activity in the Jewish community).

Plaintiff was again subjected to hostilities and harassment at LB&B where she worked after leaving A&A, at a reduced level of responsibility, but with higher pay and better benefits. The secretarial "fighting Irish" group resented plaintiff's conversion, and constantly humiliated and embarrassed her by reference to plaintiff's likely

"counterpart" in Biblical history being Hagar, Egyptian (black), Sarah's handmaid and Abraham's concubine - a status to which plaintiff would never permit herself to be reduced. A partner of LB&B told Ryan (a secretarial leader) to stop the Sarah/Hagar insult because of the intentional pain and hostility inflicted on plaintiff thereby, who is divorced from her husband who is not at all like Abraham; and plaintiff is certainly not subservient to Maddox's new wife, Sara, who is not like the matriarch. Hostile conditions continued at LB&B after plaintiff's transfer to the bankruptcy department; blacks from the mail room snooped at her desk, causing chagrin of partners of the firm, blond female attorneys accused her of being "strange" (convert) and condescending (merely because of attempting courteous conversation). The resentment was about plaintiff's observance of the sabbath and leaving work early on Friday afternoon in the winter to observe the Jewish sabbath which forbids work after sundown. Resentment also impliedly arose from the conviction that others similarly interested in Judaism would be or had been turned away, while plaintiff had been accepted. In addition, hostility toward plaintiff because of the wrongful interpretation that plaintiff was neglecting her children by such an interest or affiliation constantly upset plaintiff because of implied interference with plaintiff's children (church efforts to "save" them, to keep them away from Jewish practices) while plaintiff was at work. As justification for this vicious, illegal and painful interference, on Friday in the winter, instead of respect for plaintiff's religious convictions, lewd suggestions of leaving early to engage in promiscuous sex rather than prayer services were constantly inflicted upon plaintiff. In addition, plaintiff's obtaining a minor increase in child support resulted in resentment among women in the accounting department, which precipitated the firing of plaintiff in November, 1987. The implication was that the Jewish community was attempting to freeze plaintiff's income at an intolerably low level, and to prevent plaintiff's attainment of gainful employment for which she is amply able and educated in a more responsible position (teaching, writing, real estate and/or insurance sales). Plaintiff was finally fired because of the hostilities at LB&B, all based on discrimination against plaintiff on the basis of gender, race and religion. (xii-xiii)

From August, 1988 to January, 1989, plaintiff's daughter was missing; she had been moved out of the Mozart location without plaintiff's knowledge or consent. Maddox's and Gemkow's connections are impliedly responsible for Margot's disappearance without

consultation of Plaintiff. She was located after an associate of Margot's, Gonzalez, threatened plaintiff on her answering tape, asking how her child support money was being spent and saying that plaintiff was being watched by more people than she knew. Impliedly, plaintiff was being watched not only by the Jews following her, but also by those interested in separating plaintiff from her children (Maddox, Gemkow, church or religious fanatics, and/or mental health professionals overstepping their bounds [Jewish Family Services, a counselor named Jennifer who advocated too much disloyalty and/or selfishness, was consulted by Margot during the summer of 1988]).

Similar discriminatory hostilities were created at three additional employers' environments which are complained of in the complaint: D&D, Elaine Gothelf's management at B. Angell & Associates, and New Trier High School. At D&D, resentment of plaintiff's observance of the sabbath or practice of orthodox Judaism was resented not only by the senior secretary, Lorek, but also by the employers (Dardick) who are/were not orthodox themselves. Within one month of having filed a bankruptcy petition because of child support having ceased (plaintiff's children dropped out of college), plaintiff was fired. The firing demonstrated the employer's failure to correct wrongs in favor of scapegoating the innocent victim. Prejudice against bankrupts contributed to the hostilities, firing and relegation of plaintiff to increasing poverty less than one-fourth her worth. Plaintiff's already severe lack of funds was doubled and her inability to live a decent life was assured. At B. Angell & Associates, in a situation of severe underemployment in order to earn a mediocre income, plaintiff suffered constant humiliation by Elaine Gothelf, her supervisor, who did nothing but badmouth people over the phone within plaintiff's hearing, threatening plaintiff with "having to find something wrong with it", "it" being plaintiff's work and/or her activity/conversion in the orthodox Jewish community. Gothelf, like Joanne Rowe at LB&B, refused to permit plaintiff to be an individual rather than robot or subservient (slave!!), accused plaintiff of "always arguing with her" as if plaintiff were being insubordinate when the topics under discussion had nothing to do with work. Plaintiff is entitled to ideas and beliefs of her own, and Gothelf as well as Rowe were wrong to accuse plaintiff falsely and to fail to accept plaintiff's individual differences. Americans are required to respect the individual liberty and freedom of thought, speech and religion to which Americans are entitled. Plaintiff was fired from B. Angell

because of Gothelf's negative attitude. At New Trier High School, in January-February, 1994, the teacher for whom plaintiff first subbed told Plaintiff to "let HIM do it", demonstrating discrimination against Plaintiff on the basis of gender in favor of another student teacher, a male, from NU, who insulted Plaintiff by saying that he and she would have to "go down." (Plaintiff agreed to no such thing.) Various students and parents indicated prejudice against Plaintiff based upon false slander from NU, including bias against Plaintiff's interpretation of Dickens as not being anti-Semitic, the idea that Plaintiff could not write (remark by Elizabeth Dipple about Charlotte Bronte) and the "door" being open only on the left (in clear retaliation against plaintiff who was/is resented for "always being right"). During the second sub assignment, Plaintiff was viciously attacked by a Spanish teacher who created a hostile environment by screaming "that puts me to shame; I'll take 'm down" after a class discussion in which a student had mentioned the "unrespectability" of out-of-wedlock or bigamous sexual relationships. The attack resulted in Plaintiff's not being asked to teach at New Trier again. The attack discriminated against plaintiff on the basis of gender and religion, as if freedom of speech is monopolized only by minority groups and the moral majority has no right to voice an opposing opinion! A situation clearly unethical and violative of teacher's and students rights as well as of the need to be able to discuss individual differences of opinion respectfully. The repeated firings demonstrate repeated, deliberate discrimination on the basis of gender and religion, the deliberate infliction of emotional distress unrelated to plaintiff's ability to work, and constitute gross violation of plaintiff's basic constitutional rights to speech, thought, employment free of harassment and discrimination.

Shortly after leaving B.Angell, plaintiff applied to Northwestern University for admission to their M.A./Ph.D. program in English. Roseann Chasman, a member of the Jewish community, exhibited her prejudice and animus to prevent plaintiff's study at a secular school by saying she didn't believe plaintiff could succeed there, after plaintiff had graduated at the top of her class from a better school! (Duke University). Chasman had also told plaintiff that plaintiff was so perfect she had to find something wrong with plaintiff, thereby admitting complicity with Gothelf's program of criticism of everything plaintiff did, said or thought.

In March, 1992, the time of the firing from B. Angell, plaintiff searched for work as a teacher of English or French at the high school

level but was invited to interview nowhere. Plaintiff also applied for continued graduate study at Northwestern University where, on the advice of administrators, Plaintiff accepted "early admission" to the evening program conducted by Martin Mueller. In furtherance of her ex-husband's revenge, Plaintiff was later told that she would not have been admitted were she not still married to Maddox. Further sexist harassment was flaunted by the constant implication that students had to perform sexual services in order to achieve top grades.

In addition, the remarks made by Professor Christopher Herbert after plaintiff's speech on November 24, 1992, prompted adverse reactions to Plaintiff, because students and faculty believed that Herbert opposed Plaintiff's study; inconceivable harassment and abuse was inflicted upon Plaintiff as a result of Herbert's remarks. A break immediately followed the speech, and Herbert reentered the room stating "That was shit; she's always right on the money -- give it to me" and later said, "went down, went down; I don't want to get married, that doesn't sound very U-4-ic." The next day, Plaintiff was deliberately struck by car by Leo Vakser; the police officer who arrived at the scene asked Plaintiff if the "hit" occurred because she was "lying down" and implied direct knowledge of the remarks made in class the previous day. The "hit" was linked to the speech by the warnings given Plaintiff by gang graffiti on November 24, that the "A student was the next to die" and on November 25, by employment counselors at Pat Stevens Employment Agency who told Plaintiff she was "setting herself up to be a victim" and that her "skills were killing." Plaintiff was told by NU representatives that the situation was competitive as if such destructive acts might be condoned. Furthermore, the *Chicago Tribune* printed headlines the day or two before the speech advertising "sticks to hot topic," an article about a gangster's release from prison, and a "moll" in a hot-pink dress and mink coat ([Nickerson flashback, Molly Bloom] threats to send plaintiff back to her office because of her desire for substantial income), words calculated to impress upon plaintiff continued trespass and invasion of her privacy, cooperation with her ex-husband and coercion to change her speech or not present it at all.

During the spring quarter, Herbert placed the letter V instead of K (in the name of the addressee, Jacob K. Javitz) on the face of an envelope containing a supposed positive letter of reference from him in support of Plaintiff's application for a Jacob K. Javitz fellowship for further graduate study, which was used subsequently by real estate

professionals to suggest the vulgar word "vucko" during Plaintiff's futile search for housing away from the trespass/stalking situation on Richmond. The "V", "vucko", license plates with VKK on them stalking Plaintiff to an employment application at Mather High School, haunted Plaintiff from 1993-1994. The marking coupled with remarks thereafter implied Herbert's black-listing of plaintiff from further graduate study and his turning upside down events reminiscent of plaintiff's and Maddox's experience at KU when they were students, or reversing the circumstances of plaintiff's discharge from CBL (Nickerson's marital scam). Additionally, throughout the time plaintiff studied at the library and used Vogelback Computer Center, she was stalked on campus by those hostile to feminine achievement in a male-dominated environment.

After completion and approval of her thesis, Plaintiff graduated with a Master of Arts (English) on December 29, 1993; however, when Plaintiff complained to the N.U. administration about corrupt Greek (N.U. motto) on her diploma, Fran Adams, receptionist in the president's office and a Nickerson's wife "copy" reminiscent of the scandal surrounding the CBL firing of plaintiff, rudely insulted plaintiff by saying "they already called; they don't want it comin' over here" and plaintiff assumed she was referring to the harassing stalking group (or Jews opposed to her study at a secular university). Thereafter, Arnold Weber, NU president, wrote a libelous letter accusing Plaintiff of having a history of causing trouble on college campuses which is totally untrue; Plaintiff has been an outstanding scholar, honor student, and exemplar to be followed by other students, all of her life, and had no power or control over prevention of the scandalous difficulties at NU during her attendance there. Plaintiff's attempts to report and stop stalking and harassment were ignored or resulted in retaliation against plaintiff. False rumors and information spread about plaintiff which were attempts to reverse plaintiff's and her ex-husband's marital history by insulting plaintiff rather than cherishing her. Maddox wanted to fantasize about plaintiff with other men, and was/is apparently conning people to "feed" his sickness, his will to humble, impoverish or overpower plaintiff, by continuing to perpetrate falsehood about plaintiff which is totally undeserved. The diploma was finally corrected with proper Greek, although the seal was smaller than the first and the Greek less legible. However, according to the registrar, the school did not correct the seal for the benefit of all students; instead, they faulted Plaintiff further, retaliated against her for bringing an error to their attention.

Plaintiff attempted to correct harassment conditions on campus. Plaintiff presented a record of the harassment inflicted on campus beginning November, 1992, through December, 1993, to the attention of the Graduate School, Kathleen Rundell, Dean; presentation of the complaint to the administration resulted in their retaliation against plaintiff in the form of non-admission to further study toward the Ph.D. The attack upon Plaintiff by car on the night of November 25, 1992, after she gave a speech in Herbert's class was also retaliatory. Plaintiff did not know anything about Herbert's personal life, but was not advocating sexual promiscuity as some assumed wrongly. The quoted phrase "do it" in the speech referenced government performance of job duties, not immorality. Herbert's remarks after the speech led people to believe that plaintiff was the cause of his disinterest in marriage; his remarks defamed plaintiff so badly that her entire life from that day to this has been ruined, with no prospects for gainful employment, the respect of the community or happiness to which plaintiff's character and ability entitle her.

In addition, on May 17, 1993, Plaintiff went to N.U.'s student health facility to obtain advice regarding how to deal with the stalking. Two doctors at that office, Kochan and Whiteley, forced Plaintiff to be taken to Evanston Hospital for a psychological evaluation under police escort, embarrassing and humiliating Plaintiff and denying her the medical "counsel" to which she was entitled by registration at NU. The humiliation was for the purpose of discrediting anything plaintiff might say and of avoiding discussion of plaintiff's ex-husband's, Donald L. Maddox, communications with and/or relationship with NU professors. Upon release by the hospital after wasting hours of plaintiff's time and subjecting her to the indignity of listening to some black man screaming obscenities ("suck my dick"), one of the psychologists told plaintiff that the "watch was for him" (the black man), who resembled one of those stalking plaintiff on the CTA. Upon arriving home, plaintiff telephoned Maddox who admitted that he was having people "hit on" Plaintiff.

Finally, Janet Kuhn, plaintiff's dentist, told plaintiff not to take more than two courses at NU, and implied eavesdropping upon or wiring of plaintiff's office meeting with Herbert on January 1, 1993, or direct communications with Herbert, conspiring to force or intimidate plaintiff to leave graduate school. Kuhn's partner told plaintiff they would "finish" her (plaintiff wondered what was meant, or if further anti-religious attacks against Christ-figures were happening); Kuhn also

impliedly cooperated with the CRC located in the same building as her dental office. Further, Kuhn demonstrated knowledge of plaintiff's notes inside a Dickens novel, implying her access to plaintiff's apartment without plaintiff's knowledge or authorization. Kuhn failed to recommend root canal therapy for plaintiff's abscessed tooth caused long-term pain and antibiotic medication, resulting in plaintiff's physical debilitation from December, 1992 to August, 1993.

Cagan's Management Company failed to assist Plaintiff against trespass or to clean up the filth and refuse left on the landing by the tenants (6419 N. Richmond, Apt. 3E) across from Plaintiff (Apt. 3W) who defamed Plaintiff as a "member of a cult". Cagan's further discriminated against Plaintiff on the basis of religion, saying they never "got IN" to it, referring to Plaintiff's Hebrew books, and obstructing her freedom of speech and responsibility of honest, good-faith communication to stop the trespass and stalking. Cagan's discrimination implied cooperation with those opposing Plaintiff's admission to NU, the tenants in the building (not only the Eastern Indians across the hall, but also a tall Nordic type stalking and cat-calling, following Plaintiff from the apartment building to NU campus, impliedly students of NU also, or realtors following Plaintiff to campus (Plaintiff obtained a Real Estate Salesperson's license in October, 1992). The tall Nordic type stalked Plaintiff to campus and threatened her with "not getting it" (whatever) until HE got off the computer, discriminating against and harassing Plaintiff on the basis of gender, implying computer tampering of her computer during plaintiff's absence, while various forms of harassment occurred at the NU library, all with the deliberate degradation of A students to failures and of women to incompetents. The State's Attorney's office discriminated against Plaintiff on the basis of religion and familial status (divorced) with respect to Cagan's constructive and actual eviction of Plaintiff by and through Jackie who accepted the Eastern Indians' report and Jill's (Cagan's employee) discriminatory attitude.

From 1983 to date, the public harassment, humiliation and innuendo following Plaintiff from home to work, to shop, to study, has contained quotes from private writings of Plaintiff accessible only by trespass in Plaintiff's apartment and/or from private conversations of Plaintiff over the telephone wires, within the privacy of offices or within the privacy of her own home, accessible only by trespass, eavesdropping or wiretapping. Such public repetition of Plaintiff's private conversations

and writings have inflicted emotional distress upon Plaintiff from 1983 to date, causing her to fear an all-powerful crime ring which could destroy her reputation and kill her if they wanted (attacks by car in 1992 and 1995). Invasion of privacy of writings placed in the mail has also occurred, with post office employees participating in the slander and/or defamation, indicating their interception of Plaintiff's mail, impliedly in cooperation with mental health professionals. Additionally, postal service personnel taunted Plaintiff in 1994-1995 implying black-listing of Plaintiff's applications to graduate school Ph.D. programs as infamous invitations to sexual indiscretion which they were not, saying "we do 'R' part," implying interference with Plaintiff's mail and application procedures, and telling Plaintiff her husband was "still in her box," implying cooperation in invasion of Plaintiff's privacy/mail rights by her ex-husband. In addition to Plaintiff in public with quotes from her letters, interception of Plaintiff's receipt of mail has occurred, especially bills, further damaging her credit rating.

In May, 1994, in conditions of abject poverty and unemployment and no source of income, plaintiff, on the advice of a neighbor, Esther Samber, Psy.D., applied for disability benefits from the Social Security Administration. The interviewing doctor appointed by SSA, Mark Amdur, insulted Plaintiff during the interview and refused to believe anything Plaintiff said. Amdur deliberately ignored Plaintiff in order to write a fraudulent report sufficient to obtain disability benefits. Plaintiff reported the conflict to the SSA before their receipt of any papers from Amdur. Plaintiff only recently, April, 1996, received a copy of the report although requested in 1994. The report defamed and misrepresented Plaintiff and her condition as psychotic, when it was merely emotional distress, terror, anger and upset about constant stalking and harassment over several years. Such report has been further used by Plaintiff's enemies to defame and humiliate her. The receipt of the disability benefits was Plaintiff's only means of survival. As of February, 1997, the SSA revoked the disability, saying it had ended because plaintiff had performed gainful work. The stigma, however, remains to be removed and damages for injury paid.

The worst result of the disability award was Plaintiff's hospitalization at Northwestern Memorial Hospital after her car was impounded in February, 1995. Transfer to the "psych ward" was accomplished by provoking a fight between plaintiff and an employee of NU's halfway establishment at the YMCA in downtown Chicago.

Because plaintiff would not take medication of which she had no need, she was transferred from NMH to Chicago-Read. There, plaintiff was abused by staff who were absent from the floor in order to permit a pervert's exposing himself and threatening to ejaculate in plaintiff's face. When plaintiff screamed, she was punished with isolation and a shot of animal tranquilizer while the offender was greeted by a shrink who shook his hand. Plaintiff was discharged from Chicago Read by court order; however, the continuous adverse impact of these vicious insults, hostilities and indignities have irrevocably damaged plaintiff and caused her long-term and egregious emotional distress and further rejection by family members, leaving painful and irrevocable scars. The false accusations of delusion were nothing more than an attempt to discredit plaintiff's testimony.

REASONS FOR ALLOWANCE OF THE WRIT

1. The Court of Appeals for the Seventh Circuit affirmed the district court's dismissal of plaintiff's case because it denied her motion to proceed *in forma pauperis*. In support of its position, the Court of Appeals cites *Mather v. Village of Mundelein*, 869 F.2 266, 357 (7th Cir., 1989) and *Taylor v. City of New Albany*, 979 F.2d 87 (7th Cir., 1992) *cert. denied*, 506 U.S. 1085 (1993) as authority for its decision that briefing would not be helpful to the court's consideration of the issues. The rationale for the *Mather* decision was that oral argument had been heard, eliminating the necessity of briefing; but, perhaps more importantly, *Mather* stresses the fact that a Supreme Court ruling on the same issues was due the same year (1989), by which the appellate court would be bound. Petitioner herein respectfully points out that not only has no oral argument been had in this matter, but also, and more importantly, discovery has not begun and jury trial has been requested by petitioner and one of the defendants to determine questions of material fact. Interestingly, the case to be decided in 1989, *Allegheny v. American Civil Liberties Union, Greater Pittsburg Chapter, et al*, 109 S.Ct. 3086 (1989), pertained to the combination of Jewish and Christian symbols displayed on government property during the winter holidays, and a divided decision was provided by the Supreme Court. The case herein pertains to inter-group discrimination on the basis of race and religion as well as gender, discrimination which has injured petitioner

and deprived her of basic constitutional rights with effects preventing her from livelihood and basic needs, a situation considerably more "substantial" in terms of petitioner's life and health than the issues before the *Mather* court regarding symbolic displays.

Petitioner is unaware of whether or not a case is pending or scheduled for review by the Supreme Court which is substantially similar to this, petitioner's case. However, the questions presented for review are substantial in terms of plaintiff's livelihood and well-being. The preservation of the her rights and those of others similarly situated -- converts, bankrupts, *pro se* plaintiffs or impoverished persons deprived of access to the courts -- is of considerable importance to the future well-being of this country. Our forefathers provided protections that must be obtainable by adjudication of grievances in court. Unfortunately, such grievances are often felt most by those who have few financial resources; otherwise, their "clout" and position in the community would insulate them from the harm afflicting those less fortunate. It is similarly wrong to deny access to the courts to *pro se* litigants who cannot afford the high rates demanded by attorneys who avoid "complex" cases or who decline contingent fees because they are concerned about collecting payment for their time. In this case, however, petitioner has paid all filing fees and is willing and determined to proceed whether or not proceeding *in forma pauperis* is approved.

If money is the factor determining access to the courts, then the judicial system fails because justice becomes inaccessible to large segments of the population, to those borderline citizens whose income places them at poverty level but not poor enough to qualify for *in forma pauperis* classification. For that reason, a citizen realistically advised petitioner to buy a gun rather than seek justice in the courts! Petitioner does not believe in taking the law into her own hands; however, such tactics are the result of a failed judicial system.

Finally, the seventh circuit has found in similar cases that "summary" judgment is improper where employers responsible for termination or evaluation of a victim of discrimination made age-related remarks (such as the age, gender, religious and racial taunting constantly undergone by petitioner in the hostile work environments she complains of) (*Robinson v. PPG Indus. Inc.*, 23 F.3d 1159, 1165-66 (7th Cir. 1994).

2. The district court's order should not be affirmed for the further reason that no discovery, no oral argument and no proper hearing

on the merits has been had. It is clear that the court has reached its conclusion to affirm dismissal because of petitioner's impoverishment. Such a conclusion is inconsistent with the Constitution of this country, and what every school child is taught about the United States of America's guarantee of due process and justice "for all."

With respect to the district court's dismissal, case law further properly requires the courts to leave questions of material fact to jury determination. (*Continental Ore Co. v. Union Carbide & Carbon Corp.*, 370 U.S. 620, 621 (1962) (when different inferences can be drawn from the facts alleged, rather than judicial interpretation, a jury is to weigh the contradictory evidence and inferences); *Cross v. State of Alabama*, 49 F.3d 1490, 1507-09 (11th Cir. 1995) ("circumstantial evidence may establish a § 2520 claim" and a jury may determine a violation of plaintiff's rights under the statute); (*Hampton v. Hanrahan*, 600 F.2d 600, 620-21 (7th Cir. 1979) (the nature of conspiracy is such that it is "unlikely that [non-circumstantial] evidence will exist"; all that is necessary is that there is a "possibility that a jury can infer from the circumstances that alleged conspirators have/had a meeting of the minds and reached an understanding to achieve conspiratorial objectives"; no liability under conspiracy claims is necessary for liability under § 1986 - join as defendants those who fail to stop conspiracy even if not active co-conspirators); *Jerdien v. Winston Network, Inc.*, 888 F.2d 1151 (7th Cir. 1989) (where decisionmaker accepted input from supervisor with discriminatory motive, age discrimination was a question for jury determination); *Byrd v. Clark*, 783 F.2d 1002, 1007 (6th Cir. 1986) (where plaintiff's evidence contains question as to material facts, to dismiss the case would be to err).

3. Petitioner's case presents a new condition of religious discrimination for consideration by the Supreme Court: that of the convert who is ostracized by both his/her "old" and "new" religious affiliates on the basis of birthright (race). The convert has become alienated from former affiliations and does not receive complete acceptance by his new co-religionists because of his not having been "born" into the faith. Thus, the convert, especially to Judaism, even though looked upon as a return to his original source if returning from Christian circles, is discriminated against on the basis of race (whether or not born of a Jewish mother) as well as on the basis of religion. In fact, the position of the convert is much like that of the forefathers of this country who "dissented" and left England. In this case, the situation is

compounded by the fact that petitioner is female, which provides another basis for discrimination. Orthodox Judaism has a very negative, insulting and stereotyped idea of women which petitioner and most modern women reject; however, membership in the class of females automatically subjects petitioner to illegal discrimination by Jewish males. Petitioner's grievances regarding discrimination against her on the basis of gender is brought against both Jewish and non-Jewish men and women. Thus, plaintiff requests that the Supreme Court review and consider plaintiff's case in the light of the class of "converts" as a distinct protected class. The class may be very small because of deliberate efforts to "hide" such a status in favor of birthright, a not inconceivable probability if genetics as well as history determine/influence one's beliefs.

Petitioner has suffered multiple injuries as a result of her affiliation with the orthodox Jewish community in Chicago; most of the prejudice is caused by ignorance among the people as to what exactly Judaism is and/or by disrespectful if not illegal "conversion or pressure" practices regarding newcomers or outsiders by both Jews and non-Jews. Plaintiff questions the constitutionality of any and all such practices, which are certainly not contained in Jewish law. Especially heinous is the fact that plaintiff's "conversion certificate" was misinterpreted to mean promiscuous rather than legal, married sexual relations, which misinterpretation was in turn used as justification for sexual harassment. Such harassment, however, began in 1983, when the member of a prominent Chicago family (Nickerson) compared petitioner to a Jewess. The stalking and harassment to which petitioner has been subjected have defamed, injured and ruined her life from 1983 to date. Primarily, resentment of petitioner's observance of the Jewish sabbath by not working on Saturday has resulted in hostility and discrimination against her in office environments. Finally, contrary to the motions to dismiss, plaintiff's claims are stated with clarity, are actionable and sufficient to state a claim under Rule 12(b)(6) and Fed.R.Civ.P. 8(a). (*Colaizzi v. Walker*, 542 F.2d at 972-74 ("plaintiff need only allege the denial of a property or liberty interest that is arguable or putatively plausible under state law of the Bill of Rights in order to allege . . . a federal claim for stigmatization of reputation, good name or integrity").

4. Since the district court's order was entered WITH PREJUDICE, it is particularly important that it not be affirmed because such affirmation precludes pursuit of justice and relief now or in the

future for the gross discrimination on the basis of gender and religion, which has caused her unemployment, stigmatization, harassment, stalking, black-balling, cat-calling, unendurable insult and injuries from which plaintiff has attempted to escape but which pervade the entire country due to instantaneous communications by computer, phone, radio and/or wireless "stalking." The defamatory stigma is so pervasive that plaintiff has been unable to settle anywhere without being subjected to trespass, harassment, stalking and insult so severe that she has been repeatedly fired and humiliated from 1983 to date. When eradication of discrimination is the purpose of the civil/equal rights statutes, and the intent of the legislature, the judiciary is wrong to deny a victim of discrimination access to redress of such grievances through the courts, which dismissal with prejudice would accomplish. (*Hishon v. King & Spalding*, 467 U.S. 69, 73 (1984) (dismissal improper unless clear that no relief could be granted under any set of facts); *Kunik v. Racine County, Wis.*, 946 F.2d 1574, 1580-1582 (7th Cir. 1991) (remanded for trial because not clear that "no relief could be granted under any set of facts that could be proved consistent with the allegations").

Petitioner also requests review of the case from the standpoint of the fact that anti-religionists create a hostile environment not only for converts but for "believers" generally, and that religion itself involves not only belief but ethical actions performed because of those beliefs, a definition consistent with 42 USC 2000e(j). Plaintiff further requests review of the case based upon her membership in the class of bankrupts which is now a federally-protected class for the reason that no one should be punished for attempting to benefit from the laws of this country, including the bankruptcy laws. Most people want to pay their bills and people file bankruptcy only because of adverse changes in financial condition beyond their control; creditors who want their bills paid should assist the debtor with suitable employment rather than worsening the situation by firing and public ridicule so damaging and defamatory that employment is unobtainable. To use credit rating as a screen for employment does not make sense; the public needs to be educated as to the purpose of bankruptcy rather than encouraging sadistic public humiliation which makes matters worse for debtor and creditor alike. Review is requested also to consider the constitutionality of using credit rating as a bar to employment or further education.

5. The district court's order should not be affirmed for the further reason that the decisions reached thereunder conflict with established case law. To wit:

(a) Questions of material fact remain the determination of which are properly left to a jury. The district court errs in its determination that the facts of this case do not rise to the level of actionable offenses; such interpretation should be left to the jury, as requested by plaintiff and CTA. (*Continental Ore, Cross, Hampton, Jerdien, supra*); *Galloway v. Gen'l Motors Service Parts Oper.*, 78 F.3d 1164, 1167 (7th Cir. 1996) (although "merely vulgar, sporadic and annoying comments or conduct are not actionable, when the same conduct or comments are repeated constantly, they become seriously harassing through dint of repetition and are therefore actionable"); *Meritor v. Vinson*, 477 US 57 (1986) (a regular or daily occurrence is sufficiently severe and pervasive to create a hostile environment).

(b) The magistrate and district court failed to interpret the facts and their severity in the light most favorable to plaintiff as required. (*Antonelli v. Sheahan*, 81 F.3d 1422, 1427 (7th Cir. 1996) (duty to view the complaint in the light most favorable to plaintiff, and to draw all reasonable inferences from the facts in favor of plaintiff); (*Hack v. Oxford Health Care Inc.*, 562 F.Supp. 295, 296 (N.D. Ind. 1983) ("on motion to dismiss, all allegations of plaintiff's complaint must be construed in the light most favorable to plaintiff [allegations taken as true]") (296, quoting *Scheuer v. Rhodes*, 416 U.S. 232); *Haines v. Kerner*, 404 U.S. 519, 520, 92 S.Ct. 594, 595, 30 L.Ed.2d 652 (1972) (per curiam) ("read the *pro se* party's supporting papers liberally and interpret them to raise the strongest arguments that they suggest"); *John's Insulation, Inc. v. Siska Const. Co.*, 774 F.Supp. 156 (S.D.N.Y. 1991) ("factual allegations of non-moving party's pleadings [must be taken] as true and construed in the light most favorable to that party"); *Jones v. Commander, Kan. Army Communications Plant, Department of the Army*, (1993, D.C. Kan.), 147 FRD 248 (when "determining whether or not a hostile environment of sexual harassment has taken place, focus on the perspective of the victim"); *Koski v. Gainer*, 63 FEP Cas BNA 939 (N.D.Ill. 1993), No. 92 C 3293 (reverse discrimination under §1981 is specifically actionable where "injury in fact is denial of equal treatment resulting from imposition of a barrier" based on race or color, including white); *Walker v. Carter*, 820 F.Supp. 1095, 1097 (C.D.Il 1993) ("when

determining genuine issue(s) of material fact, the evidence [must be construed] in the light most favorable to the non-moving party").

The facts of hostile work environments detailed by plaintiff would have adversely affected any reasonable person in the same or similar circumstances; the pertinent tests used by the courts, but not applied properly by the district court herein are: 1) *Harris v. Forklift* (discriminatory intimidation, ridicule or insult is violative of Title VII if sufficiently severe or pervasive to alter the conditions of employment and create an abusive work environment; interpreted as "hostile conduct the purpose or effect of which is unreasonable interference with an individual's work performance," alters the terms, conditions or privileges of employment, "detracts from job performance, discourages remaining on the job, and keeps from advancing in career" [all of which are true of plaintiff's experience]); 2) *Dey v. Colt Constr. & Dev. Co.*, 28 F.3d 1446, 1454 (7th Cir. 1994) (daily comments (sex banter) which prevented plaintiff from completing her work in a timely fashion was discriminatory alteration; criterion of hostile environment is "not what a reasonable female employee is capable of enduring, but whether the offensive acts alter the conditions of employment" [Plaintiff's repeated firings in response to abusive conditions, scapegoating rather than correcting the abuses]); 3) *Carr v. Allison Gas Turbine Div., Gen. Motors Corp.*, 32 F.3d 1007, 1009 (7th Cir. 1994) (plaintiff need show only that conditions of employment were adversely affected in order to state a claim under Title VII); and 4) *King v. Hillen*, 21 F.3d 1572, 1581-1583 (Fed.Cir. 1994); *Rodgers v. Western-Southern Life Ins. Co.*, 12 F.3d 668, 674 (7th Cir. 1993) ("court must consider the cumulative weight of several "isolated" . . . comments").

(c) Plaintiff has established her membership in the protected class of females and religious converts, which membership is sufficient to state a claim under the civil rights laws. (*Bohen v. City of East Chicago, IN*, 799 F.2d 1180, 1185-86 (7th Cir. 1986) ("discrimination and harassment of an individual woman because of her sex is a violation of the equal protection clause); *Bray v. Alexandria Women's Health Clinic*, 506 US 263, 274 (1993) ("invidious" means tending to excite odium, ill will or envy"; "likely to give offense, especially unjustly and irrationally discriminating"); *Carpenters v. Scott*, 463 US 825, n.10; *Chappell v. Emco Machine Works Co.*, 601 F.2d 1295 (1979 CAS Tex); *DeShaney v. Winnebago DSS*, 489 US 189 (1989) (failure to provide police protection is abuse of power); *Fannie v. Chamberlain*, 445

F.Supp. 65 (W.D.Pa. 1977) (§ 1985(3) provides remedy for . . . and reaches discrimination on the basis of sex, with females members of a class protected thereunder); *Harris v. Johnson*, 731 F.Supp. 846 (N.D.Ill. 1989) ("stigma plus" test for deprivation of liberty interest protected by the 14th Amendment - test met by both defamation "plus" foreclosure from employment); *Larry v. Lawler*, 605 F.2d 958, 959 (7th Cir. 1978) (length of wrongful deprivation is an important factor in assessing the impact of "official" action on private interests, including extent of injury and damages therefrom); *Magnussen v. peak Technical Services*, 808 F.Supp. 500, 501, 512 (E.D.Va. 1992) (unconventional employer control of conditions of employment (deal with outsider to hire or fire), *prima facie* case of sex discrimination where evidence reflects sexist attitudes); *Meadows v. Ford Motor Co.*, 510 F.2d 939 (6th Cir. 1974) (courts to focus on sex discrimination with equal force as race discrimination); *Munson v. Friske*, 754 F.2d 683, 695 (7th Cir. 1985) (§1985(3) liability for damages extends to discrimination on the basis of sex, religion, ethnicity or political loyalty); *Stevens v. Tillman*, 855 F.2d 394, 404 (7th Cir. 1988) (*Novotny* not the last word on §1985(3)); *Volk v. Coler*, 845 F.2d 1422, 1433 (7th Cir. 1988) (§ 1985(3) liability for damages extends to discrimination on the basis of sex, religion, ethnicity or political loyalty and does not require class-wide discrimination; §1985(3) does extend to intra-entity conspiracies.) (*See* Appendix for additional cases.)

(d) Two-thirds of the defendants and injuries were not addressed nor considered by the court. (*Daniels v. Essex Group, Inc.*, 937 F.2d 1264, 1274 (7th Cir. 1991) (acts of racial religious or sexual harassment must be considered in the context of ten years of verbal taunting; pervasive pattern of racial or sexual jokes sufficient to sustain a hostile environment claim).

6. The district court's failure to grant leave to file an amended complaint should not be affirmed, especially when plaintiff complains *pro se*, has basic constitutional grounds for complaint, and has had difficulty obtaining attorney representation because of their conflicts of interest (representation of defendants or their affiliates, etc.). The failure to grant leave to file, under the circumstances of plaintiff's hardship, also conflicts with the decisions rendered in other similar cases by this and other courts. (*Heidelberg v. Hammer*, 577 F.2d 429 (7th Cir. 1978) (*pro se* litigants must be given leave to amend when advised of specific defects in pleading); *Manny v. Department of Transportation*,

664 F.Supp. 1210 (N.D.Ill. 1987) (where defects in complaint are curable, district court retains jurisdiction over the action, dismissal of complaint not resulting in dismissal of the action (28 USC § 1332 (a,c)).

7. The district court's failure to waive EEOC notice should not be affirmed because such a determination conflicts with the decisions rendered in other similar circumstances and because notice to the employers was unnecessary by virtue of the pervasive nature of the harassment commented upon if not exacerbated by the employers themselves. (*Albemarle Paper Co. v. Moody*, 422 US 405, 418 (1975) (Congressional intent: "filing charges with the EEOC should not be construed to erect a jurisdictional prerequisite to suit"; Title VII has "broad goal of elimination of discrimination" and intent to "provide all necessary relief and to ensure complete justice"); *Cross, supra*; *Franks v. Bowman Transportation Co.*, 427 U.S. 747 (1976); *Huddleston v. Roger Dean Chevrolet, Inc.*, 845 F.2d 900, 904 (11th Cir. 1988) (waiver is available when notice has been given to the employer in other ways than through the EEOC - employer had knowledge of the harassment by complaint to higher management of the problem or by pervasive nature of the harassment so that the inference of constructive knowledge arises); *Irwin v. Dept. of Veterans' Affairs*, 498 U.S. 89 (1990); *John's Insulation, Inc. v. Siska Const. Co.*, 774 F.Supp. 156 (S.D.N.Y. 1991) (when pled in conjunction with interference with basic fundamental rights and liberties guaranteed by the Constitutional amendments, filing with the EEOC is not prerequisite to suit); *Koelsch v. Beltone Electronics Corp.*, 46 F.3d 705, 707 (7th Cir. 1995); *Medina v. Spotnail, Inc.*, 591 F.Supp. 190, (N.D.Ill. 1984); *Palmer v. General Mills, Inc.*, 513 F.2d 1040; *Scherer v. Balkema*, 840 F.2d 437 (1988) (claim accrues when injured becomes aware he is suffering from wrong for which damages may be recovered in a civil action); *Singleton v. City of New York*, 632 F.2d 185, 192 (2d Cir. 1988); *Vakharia v. Swedish Covenant Hospital*, 824 F.Supp. 769 (N.D.Ill. 1993) (defendants liable under Title VII even if not the employer(s) (771), decision-making employees liable in an individual capacity under ADEA, Title VII and § 1981) (785); *Zipes v. Trans World Airlines, Inc.*, 455 U.S. 385, 398 (1990).

8. The district court's order should not be affirmed for the further reason that the magistrate's report and recommendation (adopted by the court) assumed a definition of disability not appropriate to plaintiff, who is quite able to engage in substantial gainful activity; in fact, the Social Security Administration has rescinded the disability

determination as of February, 1997, because petitioner has performed such substantial gainful activity. Petitioner did not learn of the content of the disability determination until two years after the fact, but advised the SSA of her personality conflict with the physician writing the determination immediately after interviewing with him in June, 1994. Petitioner never considered herself "disabled" in the sense of inability to perform substantial work; but understood the definition of "disability" to be the condition of stigmatization, harassment, tarring/mud-slinging which caused the public at large to avoid her or ostracize her. Petitioner would never have thought of applying for such benefits had not a neighbor, Esther Samber, told her to do so because of the neighbor's perception that "they disabled" petitioner. In other words, petitioner relied upon a definition of disability which she was given to understand meant public perception of "unsuitability" because of stigmatizing harassment conditions.

In addition, the magistrate admitted that he was related to one of the defendants herein and that it might be improper for him to rule on the case because of said relationship. Not only was/is the magistrate related to one of the defendants, but also, he is a member of the class of Jewish males exhibiting indiscreet and unwanted sexual attention to plaintiff. The magistrate hostilely told plaintiff that he was married as if plaintiff advocated the opposite when she does not.

9. The district court's decision should not be affirmed because to do so would prevent relief and remedy to plaintiff, the victim of discrimination on the basis of gender and religion, financial condition, age and race, and who has appropriate, basic constitutional grounds for complaint -- preservation of life, liberty and property interest, freedom of speech and religion, and rights to due process of law. Although the district court dismissed several claims on the basis of "criminalized" discrimination statutes, eavesdropping/wiretapping connected with trespass, and/or postal service employees' cooperation with privacy invasion/breach of confidentiality with respect to distribution of/"checking" the contents of plaintiff's mail, no effort was made to advise plaintiff of the alternative "private right of action" statutes under which relief and remedy could and should be granted. By failing to do so, the court is neglecting its duty to assist plaintiff's efforts to assure justice and judicial effectiveness in this country. (*Chapman v. Musich*, 726 F.2d 405, 408 (8th Cir. 1984) ("a complaint is not to be dismissed 'merely because a Plaintiff's allegations do not support the particular legal

theory he advances,' for a court is under a duty to examine the complaint to determine if the allegations provide for relief on any possible theory"); *Harrison v. Springdale Water* & Sewer Co., 780 F.2d 422 (8th Cir. 1986) (court to infer whatever grounds the facts imply to counseled litigants and to attorneys whose knowledge of the laws and available causes of action is obviously greater than that of a non-attorney pro se plaintiff; court under duty to examine facts for grounds for relief on any possible theory no matter what particular legal theory is asserted by the plaintiff (1426, quoting Chapman, at 408)); *Merrill, Lynch v. Curran*, 456 US 353, 394 (1982) ("common law presumption . . . that a statute enacted for the benefit of a particular class confer[s] on members of that class the right to sue violators of that statute"); *U.S. v. Guest*, 383 U.S. 745 (1966).

CONCLUSION

For all the foregoing reasons, the petition for certiorari should be granted.

Respectfully submitted,



LINDA MADDOX,
Petitioner, *pro se*

Supreme Court, U.S.
FILED

(2)

No. 97 909 DEC - 1 1997

OFFICE OF THE CLERK

In the Supreme Court of the United States

October Term, 1997

Linda Maddox

Petitioner

v.

Capitol Bankers Life Insurance Company, et al.

On Petition for Writ of Certiorari
To The United States Court of Appeals for the Seventh Circuit

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APPENDIX TO PETITION FOR WRIT OF CERTIORARI

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UNITED STATES COURT OF APPEALS
For the Seventh Circuit
Chicago, Illinois 60604

September 2, 1997

By the Court:

LINDA MADDOX, Plaintiff-Appellant,	] Appeal from the United] States District Court for] the Northern District of
No. 97-1320 v.	] Illinois, Eastern] Division.
CAPITOL BANKERS LIFE INSURANCE COMPANY, BRUCE NICKERSON, FRANCES NICKERSON, et al., Defendants-Appellees.	]] No. 94 C 5207]] Blanche M. Manning,] Judge.

The following are before the court:

1. MOTION FOR PROCEEDING IN FORMA PAUPERIS, filed on March 1, 1997, by the pro se appellant.

2. AFFIDAVIT IN SUPPORT OF MOTION TO PROCEED ON APPEAL IN FORMA PAUPERIS, filed on March 14, 1997, by the pro se appellant.

3. MOTION FOR LEAVE TO FILE APPELLANT'S BRIEF IN EXCESS OF LENGTH SET BY RULE, filed on August 7, 1997, by the pro se appellant.

IT IS ORDERED that #1 is DENIED.

This court has carefully reviewed the final order of the district court, the record on appeal and the appellant's motion. Based on this review, the court has determined that any issues which could be raised are insubstantial and the filing of briefs would not be helpful to the court's consideration of the issues. See Mather v. Village of Mundelein,

869 F.2d 356, 357 (7th Cir. 1989) (per curiam) (court can decide case on motions papers and record where briefing would be a waste of time and no member of the panel desires briefing or argument).

Accordingly, IT IS ORDERED that the appellant's motion for leave to proceed in forma pauperis is DENIED and the district court is summarily AFFIRMED. Taylor v. City of New Albany, 979 F.2d 87 (7th Cir. 1992) cert.denied, 506 U.S. 1085 (1993).

In light of the disposition of this appeal, #3 is DENIED as MOOT.

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LINDA MADDOX, Plaintiff,	)	
v.	)	No. 94 C 5207
	)	Judge Blanche Manning
CAPITOL BANKERS LIFE INSURANCE COMPANY, et al.,	)	
Defendants.	)	

MODIFIED MEMORANDUM AND ORDER

This matter is before the court on objections of Linda Maddox, plaintiff herein, to Magistrate Judge Edward A. Bobrick's report and recommendation proposing that this court grant the respective motions of the following defendants in this action: Dominick's Finer Foods (Dominick's); the Chicago Tribune (Tribune); the Chicago Sun-Times (Sun-Times); the Chicago Transit Authority (CTA); Capitol Bankers Life Insurance Company (Capitol); Lord Bissell and Brook (LB&B); the Reverend Al Nichols (Nichols); Richard Chaivetz (Chaivetz); J. Daniel and Y. Judd Azulay (Azulays); and Frances and Bruce Nickerson (Nickersons) to dismiss plaintiff's second amended complaint. This court has conducted a de novo review of Magistrate Judge Bobrick's report and recommendation. Fed. R. Civ. P. 72(b); Goffman v. Gross, 59 F.3d 668, 670 (7th Cir. 1995). For the following reasons, this court rejects plaintiff's objections and hereby adopts the report and recommendation. As a result, the defendants' respective motions to dismiss plaintiff's second amended complaint are granted pursuant to Fed. R. Civ. P. 12(b)(6) and plaintiff's second amended complaint is dismissed with prejudice.

BACKGROUND

This court adopts the facts and history of this case as provided by Magistrate Judge Bobrick in his report and recommendation. In this pro

se lawsuit, plaintiff seeks recovery for an alleged conspiracy involving the approximately fifty defendants named in her second amended complaint. In particular, plaintiff's second amended complaint asserts that, since approximately 1980 there has been in effect a widespread conspiracy among the defendants to: prevent her from working in the insurance business, prevent her from continuing her education, demean the education she has already received, interfere with the upbringing of her children and her parental rights, invade her privacy, stalk her, plan various "hits" upon her life, and intimidate her through "theatrical imaging." Plaintiff's second amended complaint also seeks recovery for sex discrimination, mail and wire fraud, and illegal eavesdropping and wiretapping.

Plaintiff brings her seventy-two page second amended twelve count complaint plus an additional twenty-five pages of notations, wherein she cites to several provisions of the United States Code which she alleges have been violated by the conspiracy. Plaintiff alleges violations of: 18 U.S.C. § 241 (conspiracy against rights of citizens); 18 U.S.C. § 245(b)(1)(E) and § 245(b)(4) (federally protected activities); 18 U.S.C. § 16 (definition of violent crime); 18 U.S.C. §§ 1341 (mail and wire fraud); 18 U.S.C. § 2511 (illegal wiretapping); 42 U.S.C. § 1985(2) (obstructing justice, intimidating party, witness or juror); 42 U.S.C. §1985(3) (depriving persons of rights and privileges); 42 U.S.C. §1986 (action for neglect to prevent wrongs conspired to under §1985; and 42 U.S.C. §2000e-2 (unlawful employment practices).

In essence, the factual allegations in plaintiff's second amended complaint focus upon plaintiff's work history, academic pursuits, and homelife. Plaintiff avers that since about 1980, all of the defendants have engaged in a conspiracy against her that has adversely affected these facets of her life. Plaintiff claims that defendants engaged in activity -- ranging from lewd comments and unwarranted criticisms to constructive firings, stalkings, home invasion, discrimination against her based on her gender and/or religion, and acts of violence.

The chronological history of plaintiff's allegations begins in 12980 when plaintiff was, at that time working at Mutual Benefit Life Insurance Company, and has since worked for Capitol, LB&B, Azulay & Azulay, Dardick & Denlow, and B. Angell & Associates. Throughout this period, which spans from approximately 1980 through 1992, plaintiff was subjected to work environments replete with lewd comments and unprofessional treatment. As noted in the report and

recommendation, plaintiff's second amended complaint alleges that she was subjected to, among other acts, the following conduct or comments:

she has, from 1983 to present, been demeaningly referred to as a "car" (¶7);

her husband called her "intrepid" while they were married (n.8);

that a "golden rule essay" which plaintiff was asked to write was in fact a "filling station" which would constitute a sexual invitation (n.1);

when people talk about money, they are talking about sex (¶13);

one of plaintiff's employers stated that "eggs were getting laid and shipped to the city" which plaintiff took as a reference to "out-of-wedlock behavior in Milwaukee" (¶20);

plaintiff was exposed to "black symbolism" implying resentment of plaintiff by blacks who claim to "service" men to whom plaintiff has refused sexual advances (n.9);

plaintiff has been subjected to racist attacks which relate to the fact that there are both black and white Jews and that plaintiff has been accused of being "black" or Egyptian" (¶¶34, 36);

a Jewish woman's comment that she had learned when to stay home (n.21);

repeated use of the innuendoes "second" and "two symbolism" (¶82, n.31-32);

the word "vucko" on the back of a business card which plaintiff understood to mean that she was "some easy, hot number" (¶143);

public harassment by the use of the "see" and "C" puns (¶40, n.45).

Plaintiff alleges that these incidents recurred throughout her various employment changes by way of the conspiracy among the defendants. Plaintiff also asserts that, as part of defendants' conspiracy, defendants populated plaintiff's respective workplaces with "mirror images" or "copies" of people resembling plaintiff's previous employers, their relatives, or other people with whom plaintiff had been acquainted in the past. (¶¶27 and 42).

Plaintiff also avers that the alleged conspiracy extended beyond her working conditions when, on November 24, 1992, plaintiff gave a

speech while in a class at Northwestern University. According to plaintiff, those listening to her misunderstood her use of the phrase "do it" as advocating sexual promiscuity, but, in fact, plaintiff was merely referring to performing one's regular job duties. (¶52). Plaintiff claims that the professor's remarks at the end of the class (went down, went down; I don't want to get mare-eed, that doesn't sound very U-4-ic") confused people as to the point of plaintiff's remarks and, as a result of plaintiff's speech and the remarks made by the professor following the speech, plaintiff was struck by a car the next day which was driven by Leo Vakser (also known as Leon Vakseri). (¶¶53, 55, 59) In addition, plaintiff asserts that she was subjected to the following:

> men on the CTA displaying lewd body language including holding their legs apart in the shape of the Greek letter "lambda" which plaintiff claims is an improvement over blacks screaming "I told her I was going to 'f___' her butt" (n.28);
>
> a professor's writing of the letter "V" on an envelope in connection with plaintiff's fellowship application which suggested a connection between the professor and the individual who was driving the car that hit plaintiff (¶142);
>
> rumor and character defamation perpetrated by, among other things, lewd el-stop graffiti, including an upside-down "A" in the word "base" (¶144);
>
> other lewd el-stop graffiti relating to plaintiff's last speech at Northwestern which "terrorized" plaintiff and communicated that plaintiff had to be reduced to some "B" status if she remained at Northwestern and that an "A" grade plaintiff would receive would be balanced by a "C" grade in order to prevent her from obtaining top grades (¶61);
>
> the Sun-Times headline of "perfect 10" on November 10, 1985, implying some peep show or nudity which is totally untrue of plaintiff although plaintiff did visit the Chicago mikvah on that day (¶89, n.8);
>
> the Tribune's headlines about sticking to some "hot topic" during the few days preceding plaintiff's speech which prejudiced people to believe that plaintiff's speech was about some hot topic or attempted to discourage plaintiff from giving the speech (¶142, n.8);
>
> a dentist telling plaintiff that she would not "have to do it" in reference to root canal surgery (¶121).

Plaintiff's second amended complaint further asserts that the alleged conspiracy extended to blacking plaintiff, not only among potential employers, but also among academic institutions. In addition, plaintiff claims that the conspiracy has reached or affected plaintiff's person life regarding her own psychological well-being and has interfered with the custody of her children (¶66-70, 74, 76) and her ability to attract an appropriate suitor (¶36-37). Plaintiff's second amended complaint seeks damages for lost wagers, rent overpayment, and compensatory damages in the amount of approximately $277,000, punitive damages in the amount of $2,500,000 and various types of injunctive relief. (See second amended complaint at 71-72.)

Dominick's, the Tribune, the Sun-Times, the CTA, Capitol, LB&B, Nichols, Chaivetz, the Azulays, and the Nickersons moved to dismiss plaintiff's second amended complaint on a variety of grounds. The matter was referred to Magistrate Judge Bobrick who issued a report and recommendation suggesting that this court dismiss plaintiff's second amended complaint as to those defendants with prejudice. This memorandum and order addresses plaintiff's objections directed at Magistrate Judge Bobrick's report and recommendation and the propriety of the report and recommendation's conclusions.

ANALYSIS

Standard for a motion to dismiss

Before addressing plaintiff's objections, this court observes the standard to be applied to a motion to dismiss. A motion to dismiss pursuant to Fed. R. Civ. P. 12(b)(6) does not test whether plaintiff will prevail on the merits, but instead whether the claimant has properly stated a claim. See Scheuer v. Rhodes, 416 U.S. 232, 236, 94 S.Ct. 1683, 1686 (1974). This court may dismiss a complaint for failure to state a claim only "if it is clear that no relief could be granted under any set of facts that could be proved consistent with the allegations." (Hishon vl King & Spalding, 467 U.S. 69, 73, 104 S.Ct. 2229, 2232 (1984). In this regard, this court must accept as true all well-pled allegations and draw all reasonable inferences in favor of plaintiff. Perkins v. Silverstein, 939 F.2d 463, 466 (7th Cir. 1991). However, this court need not strain to find favorable inferences which are not apparent on the face of the complaint. Coates v. Illinois St. Bd. of Educ., 559 F.2d 445, 447 (7th Cir. 1977). Similarly, this court is not required to accept legal

conclusions either alleged or inferred from pleaded facts. Nelson v. Monroe Regional Medical Ctr., 925 F.2d 1555, 1559 (7th Cir. 1991). The complaint ened not specify the correct legal theory or point to the right statute to survive a motion to dismiss, provided that "relief is possible under any set of facts that could be established consistent with the allegations." Bartholet v. Reishauer A.G., 953 F.2d 1073, 1078 (7th Cir. 1992). However, the complaint must state either direct or inferential allegations concerning all material elements necessary under the chosen legal recovery. See Glatt v. Chicago Park District, 847 F.Supp. 101, 103 (N.D.Ill. 1994). For the reasons that follow, this court finds that the report and recommendation correctly proposes dismissal of plaintiff's second amended complaint.

Plaintiff specifically objects to Magistrate Judge Bobrick's findings that: (i) plaintiff has attempted to raise claims under federal statutes that do not provide for a private right of action; (ii) plaintiff has failed to satisfy the necessary pleading requirements under 18 U.S.C. §2511, 42 U.S.C. §1985(2) and (3), and 42 U.S.C. §1986; (iii) plaintiff has failed to file a discrimination claim with the Equal Employment Opportunity Commission (EEOC) prior to filing her claim under Title VII; (iv) plaintiff's allegations otherwise fail to raise a claim under Title VII. In addition, plaintiff objects on the ground that Magistrate Judge Bobrick's report and recommendation failed to review the pleadings in the light most favorable to the plaintiff. This court will discuss each of these objection in turn.

Plaintiff's claims based on criminal statutes

As previously noted, plaintiff attempts to bring a portion of her second amended complaint under federal criminal statutes. The report and recommendation proposes dismissal of those portions of plaintiff's action which are based on criminal statutory provisions, finding that 18 U.S.C. §§241 and 245, 18 U.S.C. §1341, and 18 U.S.C. §16, do not provide for a private cause of action and that, although there is a statutorily based civil cause of action for wiretap violations under 18 U.S.C. §2520, plaintiff failed to adequately state such a claim. Plaintiff, however, objects to these findings and argues that there are exceptions to the general rule that there is not a private right of action available under the federal criminal statutes. In this regard, plaintiff points out that there

are private rights of action that are available under the Securities Exchange Act of 1934 (SEC Act of 1934). 15 U.S.C. §78a *et seq.*

This court finds that the SEC Act of 1934 is wholly inapplicable to the provisions at issue and that the magistrate judge correctly proposes dismissal of plaintiff's claims based on criminal statutes. With respect to 18 U.S.C. §§ 241 and 245, which criminalize conspiracies against civil rights, it is well settled that no private right of action for damages is available under these criminal conspiracy statutes. See Lovelace v. Whitney, 684 F.Supp. 1438, 1441 (N.D.Ill. 1988), aff'd sub nom, Lovelace v. Hall, 886 F.2d 332 (7th Cir. 1989); see also Cok v. Cosentino, 876 F.2d 1,2 (1st Cir. 1989) (§ 241); John's Insulation, Inc. v. Siska Constr. Co., 774 F.Supp. 156, 163 (S.D.N.Y. 1991) (§245). Nevertheless, plaintiff maintains that 18 U.S.C. §241 permits a private cause of action because it has been held to encompass "wholly private conspiracies." Plaintiff's argument in this respect is misplaced. Although a private conspiracy may be proscribed under this criminal statute, this fact alone does not translate into an implied private right of action for damages. Compare id. Regardless of the nature of the conspiracy, a cause of action for a violation of this provision may only be brought under this statutory provision by the United States Government as prosecutor. See Cok, 876 F.2d at 2. Consequently, plaintiff's criminal conspiracy claims must be dismissed.

Plaintiff's attempt to raise a claim under 18 U.S.C. § 16 must also fail. This section, which merely provides a definition of a violent crime, states:

> The term "crime of violence" means --
> (a) an offense that has an element: the use, attempted use, or threatened use of physical force against the person or property of another, or
> (b) any other offense that is a felony and that, by its nature, involves a substantial risk that physical force against the person or property of another may be used in the course of committing the offense.

It is clear hat this provision is definitional in nature and does not create a cause of action. Compare 18 U.S.C. § 2520. Therefore, plaintiff's claims under this provision must also be dismissed.

Similarly, plaintiff's claim under 18 U.S.C. § 1341 for mail and wire fraud must be dismissed. She asserts that the nature of her claim is such that a lawsuit is the only means by which she can obtain relief for

alleged violations of this provision. Contrary to plaintiff's claim, it is well-established that no private action can arise from this statutory provision. Ryan v. Ohio Edison Co., 611 F.2d 1170, 1178-79 (6th Cir. 1979); Wenzoski v. Citicorp, 480 F.Supp. 1056, 1062 (N.D.Cal. 1979). Since no private right of action exists under 18 U.S.C. § 1341, plaintiff's mail fraud claims must also be dismissed.

Plaintiff also attempts to raise a claim under 18 U.S.C. § 2511, the illegal wiretapping provision. Although no private cause of action exists under this provision, a private right of action does exist for a wiretapping violation under 18 U.S.C. § 2520. However, plaintiff's allegations fall short of stating a claim under 18 U.S.C. § 2520. In plaintiff's objections, she argues that the necessary elements were adequately set forth in her second amended complaint. While it is true that circumstantial evidence may provide a sufficient basis for allegations under this provision, Cross v. State of Alabama, 49 F.3d 1490, 1509 (11th Cir. 1995), (citing Walker v. Davis, 911 F.2d 1573, 1578 (1st Cir. 12990), upon review of plaintiff's allegations, this court fails to find even an iota of circumstantial evidence within the pleadings to support and illegal wiretapping claim.

In order to set forth a civil claim for illegal wiretapping, plaintiff must allege: (1) the interception of her oral communications; (2) an expectation that her oral communications were not subject to interception; and (3) that her expectation was justified under the circumstances. Cross, 49 F.3d at 12508-9, (citing Walker, 911 F.2d at 1577). Although plaintiff may have satisfied the second and third prongs of this test because the communications allegedly intercepted took place within plaintiff's apartment where an expectation of privacy is undoubtedly justified, there are no allegations within plaintiff's second amended complaint which could be read to consist of circumstantial evidence of the interception of plaintiff's private communications required to satisfy the first prong of the test.

In particular, even though plaintiff is apparently of the view that her oral communications were intercepted, she fails to identify the responsible party in her second amended complaint. In her objections, plaintiff asserts that the responsible parties are "unnamed tenants of her apartment building, in the second floor beneath her, through cooperation with the government (CTA), the Jewish community, plaintiff's employers and with the management and/or owner of the building." Even considering these additional assertions put forth in plaintiff's

objection, plaintiff still falls short of pleading the necessary elements. Not only are the parties whom plaintiff claims are responsible for the illegal wiretapping speculative and imprecise, plaintiff neglects to indicate what conversations or other communications she believes to have been intercepted, the possible means employed, or event he bias by which she claims she has been a victim of illegal wiretapping. In other words, plaintiff does no more than state her conclusion that illegal wiretapping has occurred, yet fails to support her position.

The only occurrences plaintiff attempts to cite as a means of supporting her claim are references in her objection to "verboten quotes of those anonymous actors stalking plaintiff to and from her residence and various destinations," without any reference to the content of these quotes, the content of the conversations which were the alleged source of the verbatim quotes, or the individuals who allegedly reiterated these quotes. In addition, plaintiff's objection also refer to "copying, mirror-imaging, wiretapping and eavesdropping for a part of 'conversion practices' administered by the Jewish community," as circumstantial evidence of her claim. Once again, these allegations doe not rise to the level of circumstantial evidence sufficient to support her claim for relief for illegal wiretapping. There is absolutely no direct or circumstantial evidence alleged which links any of the conduct alleged with plaintiff's private communications. As such, plaintiff's claims under 18 U.S.C. § 2511 must also be dismissed.

Additionally, within plaintiff's objections, plaintiff ahs requested leave of the court to address any deficiencies within her complaint under the illegal wiretapping claim. This request is inappropriate as it is raised within her objections. Nevertheless, even if plaintiff's request were properly before the court, it would be denied. While it is true that under Fed. R. Civ. P. 15(a), leave to amend a complaint "shall be freely given when justice so requires," the decision of whether to grant leave to amend a complaint is a matter within the discretion of the trial court. See Sanders v. Venture Stores, Inc., 56 F.3d 771, 773 (7th Cir. 1995). In considering this issue, plaintiff has failed to elaborate in any way how the fatal flaws within her wiretapping allegations can be cured by amendment. Therefore, plaintiff's request for leave to amend is hereby denied.

Conspiracy Claims under 42 U.S.C. § 1985(2), § 1985(3) and 42 U.S.C. § 1986

Plaintiff raises many of her claims concerning allegations of a conspiracy among a myriad of defendants with the intent to deprive plaintiff of her civil rights in violation of 42 U.S.C. §§ 1985(2) and (3) and 42 U.S.C. §1986. Magistrate Judge Bobrick's report and recommendation found that plaintiff failed to state a claim for conspiracy under these provisions. In plaintiff's objections, however, plaintiff argues that she has adequately pled the required elements of a conspiracy claim. This court will reexamine plaintiff's allegations for their sufficiency.

This court finds that even upon the most generous reading of plaintiff's allegations, plaintiff's second amended complaint does not support a conspiracy among the defendants. The Seventh Circuit has explained that in order for a complaint to adequately aver a civil conspiracy claim, a plaintiff must put forth factual allegations demonstrating a mutual understanding between two or more individuals suggesting a "meeting of the minds" relative to the alleged conspiracy. Kunik v. Racine County Wisconsin, 946 F.2d 1574, 1580 (7th Cir. 1991). Although allegations supporting an agreement between the parties need not be an overt agreement, if the alleged conspiracy is not based on an overt agreement, the factual allegations in support of the conspiracy must be sufficient to raise the inference of a mutual understanding. Id.

In plaintiff's second amended complaint, plaintiff asserts that a conspiracy exists between a diverse group of defendants, including, among others, the ones presently before the court, i.e., Dominick's (a grocery store), the Tribune and Sun-Times (newspapers), the CTA, and several of her former employers. Plaintiff also alleges that this conspiracy has been ongoing over a course of at least fifteen years. However, plaintiff has provided no allegations that these defendants even knew, or came into contact with each other much less conspired together to deprive plaintiff of her civil rights. Plaintiff alleges no nexus between the defendants, beyond her perception that there must be a conspiracy against her. The Seventh Circuit has explained that "a complaint inadequately alleges conspiracy when the facts it alleges are vague, conclusory an include no overt acts reasonably related to the promotion of the alleged conspiracy." Id. (citing Hansen v. Ahlgrimm, 520 F.2d 768, 770 (7th Cir. 1975). At best, plaintiff's allegations are no more than conclusions and, as such, plaintiff's second amended complaint fails to allege the necessary requirement of a meeting of the minds among the alleged conspirators.

Plaintiff argues that her complaint is adequate in that it provides circumstantial evidence which could support the existence of a conspiracy and realleges numerous allegations in her objections to the report and recommendation which she believes supports this position. While it is true that "a plaintiff is not required to provide direct evidence of the agreement between the conspirators, "circumstantial evidence may provide adequate proof of the conspiracy." Hampton v. Hanrahan, 600 F.2d 600, 621 (7th Cir. 1979). However,, as discussed above, plaintiff's complaint alleges not even a trace of circumstantial evidence which could lead a reasonable person to infer that a "meeting of the minds" has in fact taken place. Therefore, plaintiff's claims under 42 U.S.C. §§1985(2) and (3) and 42 U.S.C. § 1986 must be dismissed. Plaintiff has simply not provided factual allegations concerning the formation of the conspiracy.

Moreover, even if plaintiff's conspiracy claims were not deficient, her claims under §§1985(2) and (3) are inappropriate. Under §§1985(2), plaintiff may establish a claim upon a showing of four elements: (1) a conspiracy by the defendants; (2) to injure a party or witness in his or her person or property; (3) because he or she attended federal court or testified in any matter pending in federal court; (4) resulting in injury or damages to plaintiff. Wright v. Illinois Dept. of Children and Family Serv., 40 F.3d 1492, 1507 (7th Cir. 1994). Since plaintiff's allegations do not involve a federal court proceeding, this statute is inapplicable. Likewise, §1985(3) is also inapplicable to the claims set forth by plaintiff. The United States Supreme Court has indicated that in order to state a claim under §1985(3), a plaintiff must establish "some racial, or perhaps otherwise class-based invidiously discriminatory animus." Griffin, 403 U.S. at 102, 91 S.Ct. at 1798. Although plaintiff states that she is a victim of sex, gender, religious and racial discrimination, the factual allegations in her second amended complaint do not support such contentions. Therefore, in addition to the inadequacy of plaintiff's conspiracy claims, plaintiff's claims brought under §§1985(2) and (3) are also dismissed.

Plaintiff's Failure to File a Discrimination Claim With the EEOC Prior to Suit

Plaintiff's second amended complaint also attempts to raise a Title VII claim for discrimination pursuant to 42 U.S.C. § 2000e-2.

Magistrate Judge Bobrick's report and recommendation proposes dismissal of plaintiff's claims based on Title VII, finding, *inter alia*, that plaintiff failed to file administrative charges with the EEOC before filing her complaint. Prior to filing suit under Title VII, a plaintiff must first file a claim with the EEOC and receive a right to sue letter. See United Air Lines, Inc. v. Evans, 431 U.S. 553, 555, 97 S.Ct., 1885, 1887-88, 52 L.Ed.2d 571 (1977); Alexander v. Gardner-Denver Co., 415 U.S. 36, 44, 94 S.Ct. 1011, 1017-18 (1974); Chambers v. American Trans Air, Inc., 17 F.3d 998, 1003 (7th Cir. 1994). In plaintiff's second amended complaint, plaintiff fails to mention a timely filing with the EEOC. However, in her objections, plaintiff asserts that she did in fact file a discrimination claim against one of her former employers, New Trier High School (New Trier) (defendant in this action not presently before the court), in the summer of 1994 and received a right to sue letter in September of 1994. Even though plaintiff alleges that she has received a right to sue letter as to New Trier, plaintiff does not aver that she has received such a letter with respect to the defendants whose motions to dismiss this court now considers. As a result, plaintiff has not sufficiently pled that she may maintain an action against the defendants presently before the court.)

In addition, plaintiff also asserts that her Title VII action against the remaining defendants should survive based upon the doctrines of waiver and equitable tolling. While it is true that "[f]iling a timely disharge of discrimination with the EEOC is not a jurisdictional prerequisite to suit in federal court, but a requirement like a statute of limitations, is subject to waiver, estoppel, and equitable tolling," Zipes v. Trans World Airlines, Inc., 455 U.S. 385, 393, 102 S.Ct. 1127, 1132, 71 L.Ed.2d 234 (1982), the burden still falls upon plaintiff to establish that any of the above exceptions are appropriate in this case. Plaintiff argues in her objections that the period should be tolled to include incidents which occurred as far back as 1980 at positions she held far prior to the one she held at New Trier. Plaintiff also apparently includes defendants who were at no time her employers, or potential employers, within this claim as well. However, according to the allegations set forth inthe second amended complaint, plaintiff was seemingly aware of the facts long before the filing in 1994. Additionally, plaintiff would be compelled to establish a connection between her former employers for tolling to be applied to this case. It is well established that the limitations period is tolled until facts that would support a charge of

discrimination are apparent to persons with a reasonably prudent regard for his rights similarly situated to plaintiff. Mull v. ARCO Durethene Plastics, Inc., 784 F.2d 284, 291 (7th Cir. 1986). As discussed above, plaintiff has failed to allege any facts supporting a conspiracy or other connection between the defendants in this case. It is therefore unlikely that the facts of this case would support the use of tolling. However, the court need not reach this issue at this time, for as discussed below, plaintiff has failed to allege facts sufficient to support a Title VII claim for discrimination.

Plaintiff Fails to State a Claim Under Title VII

The type of conduct which is actionable under a Title VII hostile environment sex discrimination claim must be such that it is "sufficiently severe or pervasive to alter the conditions of employment and create an abusive environment." Koelsch v. Beltone Elc. Corp., 46 F.3d 705, 708 (1995), (quoting Meritor Sav. Bank, FSB v. Vinson, 477 U.S. 57, 67, 106 S.Ct. 2399, 2405, 91 L.Ed.2d 49 (1986). Isolated and innocuous incidents do not support a finding of sexual harassment. Id. In Harris v. Forklift Systems, Inc., 510 U.S. 17, 23, 114 S.Ct. 367, 371, 126 L.Ed.2d 295 (1993), the United States Supreme Court indicated that factors relevant to determining whether an environment is "hostile" or "abusive" include: the frequency of the discriminatory conduct; its severity; whether the conduct is physically threatening or humiliating, or a mere offensive utterance; and whether the conduct unreasonably interferes with an employee's work performance. Although a plaintiff's subjective perceptions of the alleged abuse environment is relevant, the Supreme Court in Harris also indicated that the inquiry into whether an environment is hostile and abusive requires an evaluation from not only a subjective, but also an objective, perspective. Harris, 510 U.S. at 21, 114 S.Ct. at 370. The Court stated that "[c]onduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment -- an environment that a reasonable person would find hostile or abusive -- is beyond Title VII's purview." Id.

The conduct alleged by plaintiff in her second amended complaint is a far cry from the severe or pervasive conduct that is within the scope of Title VII. Plaintiff's allegations include instances such as referring to plaintiff as a "car," connotations that plaintiff was "black" or "Egyptian," remarks that plaintiff should "stay home," as well as the use

of metaphors, "mirror-imaging," and "theatricals." Plaintiff argues in her objections that this behavior was constant and ongoing. However, despite plaintiff's arguments to the contrary, this conduct is not severe and does not rise to the threshold level of sexually discriminatory or harassing conduct. Although such comments and perceived behavior may have been upsetting to plaintiff, "[t]he fact is , 'Title VIII is not directed against unpleasantness, per se, but only against discrimination in the conditions of employment." Koelsch, 46 F.3d at 708, (quoting Carr v. Allison Gas Turbine Div., Gen Motors Corp., 32 F.3d 1007, 1009 (7th Cir. 1994)). "'[The] mere utterance of an epithet which engenders offensive feelings in an employee, does not sufficiently affect the conditions of employment to implicate Title VII.'" Harris, 510 U.S., at 114 S.Ct. 367, 370 (1993), (quoting Meritor, 477 U.S. at 67).

This court must also examine the situation to objectively determine if a reasonable person, in plaintiff's position, would have been similarly affected by the alleged discriminatory and harassing conduct. In so doing, this court considers not only the actual effect of the harasser's conduct on his victim, but also the effect similar conduct would have had on a reasonable person in the plaintiff's position. Dey v. Colt Constr. & Dev. Co., 28 F.3d 1446, 1454 (7th Cir. 1994). This assessment, however, only weakens plaintiff's position. This court is of the view that a reasonable person would not have been adversely affected by the conduct alleged in the plaintiff's second amended complaint and the objections. In fact, as indicated by Magistrate Judge Bobrick in this Report and Recommendation, it is highly unlikely that a reasonable person would have been offended by the alleged conduct and it is also unlikely that a reasonable person would have made the connections between common work place banter and the complex metaphors and biblical references that were so perceived by plaintiff. No matter how liberally construed, it is clear that plaintiff's allegations do not create a claim which is within the purview of Title VII. Therefore, these claims must be dismissed.

The Magistrate Judge's Review of Plaintiff's Claims

Throughout plaintiff's objections, plaintiff argues that Magistrate Judge Bobrick's report and recommendation failed to review the facts in a manner most favorable to the plaintiff, particularly considering the fact that plaintiff appears pro se. This court, however, finds that Magistrate

Judge Bobrick has steadfastly adhered to this standard and has considered plaintiff's second amended compliant fairly and generously. The report and recommendation observed, and this court agrees, that allegations of a pro se plaintiff are held to less stringent standards than formal pleadings drafted by lawyers and, as such, allegations in the complaint of a pro se plaintiff are to be liberally construed. Antonelli v. Sheahan, 81 F.3d 1422, 1427 (7th Cir. 1996). In a situation involving a pro se plaintiff, this court must "read the pro se party's supporting papers liberally and will interpret them to raise the strongest arguments that they suggest." Haines v. Kerner, 404 U.S. 519, 520, 92 S.Ct. 594, 595, 30 L.Ed.2d 652 (1972) (per curiam). Nonetheless, a pro se complaint, like any other, must present a claim upon which relief may-be granted. See Sheahan, 81 F.3d at 1427-28. Even when dealing with pro se litigants, this court need not accept inferences drawn by plaintiff if such references are unsupported by the facts set forth in the complaint and need not accept legal conclusions cast in the form of factual allegations. Henthorn v. Dept. of Navy, 29 F.3d 682, 684 (D.C.Cir. 1994), (quoting Kowal v. MCI Communications Corp., 16 F.3d 1271, 1276 (D.C.Cir. 1994). The fact remains, however, that in this case plaintiff's second amended complaint, even when liberally construed, cannot meet the requirements of Fed.R.Civ.P. 8(a) and therefore, Magistrate Judge Bobrick's review was proper.

Lastly, in a similar argument, plaintiff argues that the court has also failed to consider other possible cause s of action which may be applicable under the facts, yet not apparent to plaintiff. This court, however, finds no cause of action which may be pursued under plaintiff's second amended complaint. As a result, this objection to the report and recommendation is also rejected.

CONCLUSION

For the foregoing reasons, this court adopts the Magistrate Judge Bobrick's report and recommendation. Pursuant to Fed.R.Civ.P. 12(b((6), all counts of plaintiff's second amended complaint are dismissed with prejudice.

ENTER:

s/ Blanche M. Manning
United States District Judge

DATED: January 28, 1997

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LINDA MADDOX, Plaintiff,	)	
v.	)	No. 94 C 5207
	)	Judge Blanche Manning
CAPITOL BANKERS LIFE INSURANCE COMPANY, et al.,	)	
Defendants.	)	

MEMORANDUM AND ORDER

[The text of this opinion is identical to the MODIFIED MEMORANDUM AND ORDER, *supra*, with the exception of the conclusion, *infra*.]

CONCLUSION

For the foregoing reasons, this court adopts the Magistrate Judge Bobrick's report and recommendation. The above named defendants' motions to dismiss are therefore granted and plaintiff's second amended complaint is dismissed as to those defendants with prejudice, pursuant to Fed.R.Civ.P. 12(b)(6) as to all counts of plaintiff's second amended complaint which pertain to the referenced defendants.

ENTER:

s/ Blanche M. Manning
United States District Judge

DATED: December 16, 1996

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

LINDA MADDOX,	)	
	)	
Plaintiff,	)	
	)	
v.	)	No. 94 C 5207
	)	
CAPITOL BANKERS LIFE INSURANCE CO., *et al.*,	)	
	)	
Defendants.	)	

HONORABLE BLANCHE M. MANNING, JUDGE
UNITED STATES DISTRICT COURT

HONORABLE JUDGE:

REPORT AND RECOMMENDATION
Of Magistrate Judge Edward A. Bobrick

Before the court are the motions of the following defendants to dismiss the Second Amended Complaint of plaintiff Linda Maddox: Dominick's Finer Foods ("Dominick's"); the Chicago Tribune ("Tribune"); the Chicago Sun-Times ("Sun-Times"); the Chicago Transit Authority ("CTA"); Capitol Bankers Life Insurance Company ("CBL"); Lord Bissell & Brook ("LBB"); the Reverend Al Nichols; Richard Chaivetz; J. Daniel and Y. Judd Azulay; and Frances and Bruce Nickerson.

I. BACKGROUND

A. Plaintiff's Allegations

Plaintiff, proceeding *pro se*[1], brings her second amended complaint ("2AC") under 18 U.S.C. §§ 241, 245(b)(1)(E) and

[1] The court has made five successive appointments of counsel for plaintiff.

245(b)(4)[2]; 42 U.S.C. §§ 1985(2), 1985(3), and 1986[3]; 42 U.S.C. §2000e-2 ("Title VII")[4]; 18 U.S.C. § 16[5]; 18 U.S.C. ; 18 U.S.C. § 1341 *et seq.*[6]; and 18 U.S.C. § 2511.[7] Her 2AC comprises twelve counts spread over seventy-two pages, with an additional twenty-five pages of notations. She names some fifty defendants, which include former employers and co-workers, a university, a high school, the City of Chicago, the Chicago Transit Authority ("CTA"), the Chicago Police Department, religious and civic organizations, religious counselors, health-care providers, newspapers, grocery stores, drug stores, a printing and copying shop, a dating service, groups of tenants at two apartment buildings, and her ex-husband. Plaintiff charges these defendants with engaging in a conspiracy against her, from approximately 1980 to date, that adversely affected her employment, academic pursuits, and family life. She claims the defendants engaged in activity – ranging from lewd comments and unwarranted criticisms to constructive firings, stalking, home invasion, and acts of violence – that discriminated against her because she was a Jewish woman. The aforementioned defendants now move to dismiss plaintiff's 2AC in its entirety pursuant to Fed.R.Civ.P. 12(b)(6). Plaintiff's 2AC essentially focuses on her work history, her academic

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[2] These provisions are criminal statutes prohibiting conspiracy against civil rights; §§ 245(b)(1)(E) and 245(b)(4) specifically refer to intimidation of persons participating in or enjoying the benefits of any program receiving federal aid, and of persons so doing without discrimination on the basis of race, color, religion, or national origin.

[3] These provisions allow an action for damages incurred by a conspiracy that obstructs justice or intimidates a party from enforcing its rights in court or a conspiracy that deprives a person of rights or privileges of a United States citizen.

[4] This provision creates a cause of action to redress discriminatory employment practices.

[5] This provision of the federal criminal statute defines a crime of violence.

[6] This provision is the federal mail and wire fraud statute.

[7] Plaintiff actually cites a non-existent statute, 42 U.S.C. § 2511, in her second amended complaint.

pursuits, and her homelife. She claims these facets of her life have all been adversely affected by a far-reaching and long-standing conspiracy among the defendants. We begin our summary of plaintiff's complaint with her work history, which for the purposes of this case, begins in 1980. Plaintiff was, at that time, working at Mutual Benefit Life Insurance Company, and has since worked for CBL, LB&B, Azulay & Azulay, Dardick & Denlow, and B. Angell & Associates. Throughout this period, running from 1980 until 1992[8], plaintiff was subjected to work environments replete with lewd comments and unprofessional treatment. For example, she alleges that she was subjected to the following conduct or comments:

> she has, from 1983 to present, been demeaningly referred to as a "car" (2AC at ¶ 7) – her husband called her "intrepid" while they were married (2AC, note 8);
>
> that a "golden rule essay" was a "filling station" which would constitute a sexual invitation (2AC, note 1);
>
> that when people talk about money, they are talking about sex (2AC at ¶ 13);
>
> that "eggs were getting laid and shipped to the city," which plaintiff took as reference to "out-of-wedlock behavior in Milwaukee" ¶ 20);
>
> "black symbolism" implying resentment of plaintiff by blacks who claim to service men whom plaintiff has refused (2AC, note 9);
>
> that plaintiff was "black" or "Egyptian" (2AC at ¶¶ 34, 36);
>
> a Jewish woman's comment that she had learned when to stay home (2AC, note 21);
>
> repeated use of the innuendo, "second," and "two symbolism" (2AC at ¶ 82, notes 31-32, 34);
>
> the word "vucko" on a business card, meaning plaintiff was "some easy, hot number" (2AC at ¶ 143);
>
> the use of the "see" and "C" pun (2AC at ¶ 40; note 45);

According to plaintiff, these incidents recurred throughout her various

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[8] Sometime after her last work experience, plaitniff was found disabled – unable to engage in substantial gainful activity, 42 U.S.C. § 423 – and receives Social Security Disability Insurance Benefits. (2AC at ¶¶96-97)

employment changes by way of the conspiracy among the defendants. Indeed, through the defendants' technique of "copying," each workplace was populated with "copies" of people plaintiff had previously encountered. (2AC at ¶¶ 27, 42, 43). The defendants also repeatedly employed the techniques of "mirror imaging" (2AC at ¶¶ 27, 32, 47, 68, 79) and "theatricals" (2AC at ¶¶ 31, 47, 65, 68).

The alleged conspiracy extended beyond plaintiff's working conditions when, on November 24, 1992, plaintiff gave a speech about Charles Dickens' Little Dorritt in her Northwestern University class. According to plaintiff, those listening misunderstood her use of the phrase "do it" as advocating sexual promiscuity; in fact, plaintiff was referring to "doing one's job." (2AC at ¶ 52). Because her professor's comments after the speech ("went down; I don't want to get mare-eed; that doesn't sound u-4-ic") confused people, as to the point of plaintiff's remarks, plaintiff was struck by car the next day, driven by Leo Vasker (Leon Vaskeri [sic]). (2AC at ¶¶ 53, 55, 59). She was also subjected to the following:

> men on the CTA holding their legs in the shape of the Greek letter "lambda" (2AC, note 28);
>
> the letter "V" on an envelope, which suggested a connection between a professor and an individual who "attacked plaintiff by car" (2AC at ¶ 142);
>
> lewd el-stop graffiti, including an upside-down "A" in the word "base" (2AC at ¶ 144);
>
> CTA graffiti employing the letter "B" thereby suggesting that plaintiff should did [sic] not deserve a top grade (2AC, ¶ 61);
>
> the Chicago Sun-Times headline of "Perfect 10" on November 10, 1985, which implied some peep show or nudity which is totally untrue of plaintiff although she visited the Chicago Mikvah on that day (2AC at ¶ 89; note 8);
>
> the Chicago Tribune headline of "____ Sticks to Hot Topic" in the days before the speech (2AC at ¶ 142; note 8);
>
> a dentist telling plaintiff she might not "have to do it" in reference to root canal surgery (2AC at ¶ 121)

The conspiracy has extended to a blacklisting of plaintiff, not only among potential employers, but among academic institutions as well. It has also reached or affected plaintiff's personal life regarding custody of her children (2AC at ¶¶ 66-70, 74, 76, Count IV), and her

ability to attract an appropriate suitor (2AC at ¶¶ 36-37). As a result, plaintiff seeks damages for lost wages, rent overpayment, and compensatory damages in the amount of approximately $277,000, punitive damages in the amount of $2.5 million, and various types of injunctive relief.

B. Defendant's Arguments

Many of the defendants have now moved for dismissal of plaintiff's complaint, advancing various arguments. First, they point out that plaintiff brings claims under several federal criminal statutes which do not provide for civil causes of action. Next, they argue that plaintiff has not complied with Title VII's statutory requirements in her attempt to bring claims under that provision. Finally, they contend that plaintiff has failed to adequately state a cause of action for conspiracy under the various civil rights statutes upon which she relies. We assess plaintiff's allegations in light of these arguments.

II. ANALYSIS

A. Motion to Dismiss

The Seventh Circuit has recently reiterated the principles that guide evaluation of plaintiff's pro se complaint:

> We accept all the factual allegations in the complaint and draw all reasonable inferences from these facts in favor of the plaintiff. A claim may be dismissed only if it appears beyond a doubt that the plaintiff can prove no set of facts in support of [her] claim which would entitle [her] to relief. Allegations of a *pro se* complaint are held to less stringent standards than formal pleadings drafted by lawyers. Accordingly, *pro se* complaints are to be liberally construed.

Antonelli v. Sheahan, 81 F.3d 1422, 1427 (7th Cir. 1996). We have taken pains to follow these precepts in our attempt to understand and assess plaintiff's allegations. Many of plaintiff's charges seemed to have escaped the defendants and, indeed, they can be said to be obscure. With the principles regarding pro se pleadings in mind, however, we evaluate plaintiff's complaint in this case.

B. Allegations of Criminal Conspiracies, Mail and Wire Fraud, Acts of Violence and Eavesdropping

As a preliminary matter, we note that plaintiff attempts to bring a portion of the 2AC under federal criminal statutes, which generally will not be construed as providing for private causes of action. *Central Bank v. First Interstate Bank*, -- U.S. --, --, 114 S.Ct. 1439, 1455 (1994). More specifically, plaintiff cannot bring private claims for damages under 18 U.S.C. §§ 241 and 245, which criminalize conspiracies against civil rights. *Cok v. Cosentino*, 876 F.2d 1, 2 (1st Cir. 1989) (Section 241); Risley v. Hawk, 918 F.Supp. 18, 21 (D.D.C. 1996) (Section 241); *John's Insulation v. Siska Const. Co.*, 774 F.Supp. 156, 163 (S.D.N.Y. 1991) (Section 245). Similarly, she cannot bring a claim under the mail and wire fraud statutes, 18 U.S.C. §1341 et seq. *Ferch v. Butterworth*, No. 94 C 2580 (N.D.Ill. Aug. 9, 1994); *Abbott Group Ltd. v. Amoco Venture Capital Co.*, No. 86 C. 2145 (N.D.Ill. Sept. 29, 1986). Another statute plaintiff cites, 18 U.S.C. § 16, is merely a definition of a violent crime, and provides neither a cause of action nor a criminal prohibition. Insofar as any of plaintiff's claims are based on these criminal statutes, they must be dismissed.

Plaintiff brings Count XII of her complaint under yet another criminal provision, 18 U.S.C. § 2511, which covers illegal wiretapping. Unlike plaintiff's other claims, there is a civil cause of action for a wiretap violation under 18 U.S.C. § 2520. Section 2520 provides that "any person whose wire, oral, or electronic communication is intercepted . . . may in a civil action recover from the person or entity which engaged in that violation such relief as may be appropriate." 18 U.S.C. § 2520(a). The elements of such a claim are that: (1) the defendants intercepted plaintiff's oral communication; (2) plaintiff had an expectation that her oral communications were not subject to interception; ;and (3) her expectation was justified under the circumstances. *Cross v. State of Ala.*, 49 F.3d 1490, 1508 (11th Cir. 1995). Review of plaintiff's Count XII allegations demonstrates that she has failed to adequately state a claim.

Plaintiff conclusorily alleges that she has been victimized by wiretapping. She makes no mention of a responsible entity, but merely

alleges that her landlord should have known about it.[9] Furthermore, she also alleges that the phone company had to repair her phone because it did not work do [sic] to vandalism – an allegation that somewhat undermines her wiretapping claims. In short, we must find that plaintiff has failed to adequately allege a wiretapping claim under 18 U.S.C. §2520.

C. Allegations Under Title VII

Plaintiff brings a portion of her claims – specifically Counts III, VIII and IX – under Title VII, 42 U.S.C. § 2000e-2, alleging not only employment discrimination in the nature of hostile working environments, but that the alleged conspiracy among the defendants resulted in her being "blacklisted" from employment in the insurance industry and in Ph.D. programs. These claims suffer from one obvious fatal flaw and a less apparent defect as well.

First, it is apparent from plaintiff's 2AC and accompanying submissions that she has never filed administrative charges with the Equal Employment Opportunities Commission ("EEOC") against any of the defendants. Filing an EEOC charge is a prerequisite for a lawsuit under Title VII. *Chambers v. American Trans Air, Inc.*, 17 F.3d 998, 1003 (7th Cir. 1994). Of course, a *timely* filing of a charge is not a jurisdictional prerequisite – it is subject to equitable tolling *Zipes v. Trans World airlines, Inc.*, 455 U.S. 385, 394, 102 S.Ct. 1127, 1133 (1990). This would excuse tardiness in situations where a plaintiff filed a defective pleading during the applicable period, or where the plaintiff's adversary has deceived the plaintiff into allowing the time-period to pass. *Irwin v. Dept. of Veterans Affairs*, 498 U.S. 89, 96, 111 S.Ct. 457-58 (1990); *Ballard v. Sercon*, 846 F.2d 463, 468 b(7th Cir. 1987). Plaintiff makes no such allegations here, and even if she did, they would be unavailing. Equitable tolling is simply inapplicable here because plaintiff has *never* filed an EEOC charge. *Ballard*, 846 F.2d at 468. Accordingly, her Title VII claims must be dismissed.[10]

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[9] To the extent plaintiff's allegations could be interpreted as blaming the alleged conspiracy for the purported wiretapping,, such allegations are addressed i*nfra* at xx.

[10] In response to some of the defendants' motions to dismiss, plaintiff raises the "continuing violation doctrine." This doctrine allows a plaintiff to get relief for a time-barred act by linking it with an act within the limitations period. *Koelsch*

Even if this fatal deficiency to her complaint were ignored, however, plaintiff's Title VII allegations would have to be dismissed. It is clear from her 2AC that plaintiff considers herself a highly moral individual (2AC at 23, 34, 52, 55, 64, 82, 89, 101, 113, 132, 134) who, as a result, might have a lower tolerance for conduct that has become accepted, or at least commonplace, in our society and workplaces. Title VII is not violated by unpleasantness in the workplace. *Koelsch*, 46 F.3d at 708. Title VII is violated when the workplace is permeated with discriminatory intimidation, ridicule or insult that is sufficiently severe or pervasive to alter the conditions of employment and create an abusive work environment. *Harris v. Forklift Sys., Inc.*, -- U.S. --, --, 114 S.Ct. 367, 370 (1993). The *Harris* court stated that factors relevant to evaluation of the alleged conduct include frequency of conduct, severity, whether it is physically threatening or humiliating, or merely an offensive utterance, and whether it unreasonably interferes with an employee's work performance. *Id.* At --, 114 S.Ct. at 371. *Harris* also requires evaluation from not only a subjective, but an objective viewpoint:

> Conduct that is not severe or pervasive enough to create an objectively hostile or abusive work environment – an environment that a reasonable person would find hostile or abusive – is beyond Title VII's purview.

Id. at -- , 114, S.Ct. at 371. Accordingly, we must consider not only the actual effect of the alleged conduct on the plaintiff, but the effect similar conduct would have on a reasonable person in plaintiff's position. *Dey v. Colt Const. & Development Co.*, 28 F.3d 1446, 1454 (7th Cir. 1994). While we will not question whether the ten years of employment-related conduct of which plaintiff complains has had an adverse effect on her,

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v. Beltone Electronics Corp., 46 F.3d 705, 707 (7th Cir. 12995). Once again, application of the doctrine requires that a plaintiff actually file an EEOC charge. *Id* Even if we extrapolate on plaintiff's situation, however, the doctrine would not help her. The 2AC indicates that plaintiff last worked in March of 1992. (2AC at ¶ 87 . The most recent allegation of employment discrimination plaintiff makes, then, would have occurred at that time. In Illinois, a plaintiff must file an EEOC charge within 300 days of the alleged discrimination. *Koelsch*, 46 F.3d at 707. Here, plaintiff did not file her lawsuit until more than two years had passed, in August of 1994, well after the time-period had run. Even the most generous consideration of plaintiff's circumstances, then, would nevertheless dictate dismissal of her Title VII claims.

we cannot find that it was sufficiently severe or pervasive to create an environment that a reasonable person would find hostile or abusive.

Simply put, plaintiff's list of symbols, puns, and metaphors, be they letters of the alphabet, numbers or other references would not offend a reasonable person to the extent that they would find their work environment hostile or abusive. We suggest that many reasonable persons would not even understand the comments or, for example, take offense at being called a car, make the connections that plaintiff is able to make between essays, filling stations, and sexual invitations, or comprehend "two" or black" symbolism. Courts have ruled that conduct far more objectively crude that this did not create a hostile workplace. *Koelsch*, 46 F.3d at 708 (sexual advances along with sexually suggestive jokes and pranks); *Saxton v. American Telephone and Telegraph Co.*, 10 F.3d 526, 533-34 (7th Cir. 1993) (two incidents of inappropriate remarks and uninvited touching); *Weiss v. Coca-Cola Bottling Co.*, 990 F.2d 333, 337 (7th Cir. 1993) (several incidents of unwanted touching and unwelcome advances). The Seventh Circuit has even called into question whether the repeated use of the word "bitch" – which, at first blush, would seem to be objectively offensive – would constitute sexual harassment , or a gender slur. *Galloway v. General Motors Service Parts Oper.*, 78 F.3d 1164, 1167-1168 (7th Cir. 1996). The comments of which plaintiff complains simply fall short of being sufficiently hostile from an objective standpoint.

One can sense that the gravamen of plaintiff's employment claims is not only that she was repeatedly offended, but that she was treated in a less than professional manner. There is the intimation that plaintiff's employers – and, indeed, organizations espousing her religion – held an attitude that a woman's place was in the home. Allegations of "hostile, inferior, unprofessional" treatment or being subjected to repeated comments regarding the availability of a husband "to fall back on" do not rise to the level or sexual harassment. *Cheek v. Western and Southern Life Ins. Co.*, 31 F.3d 497, 504-505 (7th Cir. 1994). Thus, no matter how plaintiff's allegations are interpreted, or what degree of liberal consideration is applied to her complaint, she has fallen far short of adequately stating a claim under Title VII. Her claim must be dismissed even if her failure to comply with filing requirements were ignored.

D. Conspiracy Allegations

The balance of plaintiff's claims are based on the alleged conspiracy among the defendants to violate her civil rights under 42 U.S.C. §§ 1985(2); 1985(3); and 1986. All three sections are dependent upon the allegation of a conspiracy. The Seventh Circuit has stated that, in order for a complaint to adequately state a civil conspiracy claim:

> [t]here must be allegations that the defendants directed themselves toward an unconstitutional action by virtue of a mutual understanding. Even were such allegations to be made, they must be further supported by some factual allegations suggesting a "meeting of the minds."

Kunik v. Racine County, Wis., 946 F.2d 1574, 1580 (7th Cir. 1991). The court explained "meeting of the minds" as requiring "an agreement . . . [which] need not be overt, but if not, the alleged facts must be sufficient to raise the inference of mutual understanding. *Id.* "Acts performed together by members of the conspiracy are adequate when they are unlikely to have been undertaken without an agreement." *Id.* "Finally, a whiff of the alleged conspirators' assent cannot await discovery but must be apparent in the complaint." In this case, we must find that plaintiff has failed to adequately allege a conspiracy, or the facts from which one could be inferred.

Plaintiff's complaint is devoid of even a conclusory allegation that the defendants agreed to undertake, in concert, the actions of which she complains. The only allegations that can be stretched to allow the speculation – not even interpretation – of concerted action among defendants are those dealing with the "copying" of persons, "imaging techniques," and "theatricals." We must find such claims to be inadequate to allege a conspiracy.

Furthermore, there does not appear to have been an opportunity among the defendants to have reached such an agreement – at least not among those defendants that did not work together for the same employer. To the extent that plaintiff attempts to allege that co-employees at her various workplaces conspired together, such claims are inadequate. *Wright v. Ill. Dept. of Children & Family Services*, 40 F.3d 1492, 1506 (7th Cir. 1994). Simply put, none of plaintiff's allegations, however, liberally construed, allow for the inference of a 15-year conspiracy among her employers, the City, the CTA, a university, the

press, grocery stores, her ex-husband, and others in violation of 42 U.S.C. §§ 1985(2), 1985(3) or 1986.

Even if plaintiff had adequately alleged a conspiracy, there are other flaws in her complaint that require dismissal of her conspiracy-based claims. Section 1985(2) deals with conspiracies to deny a plaintiff access to federal court. In order to state a claim under § 1985(2), the plaintiff must allege:

1) a conspiracy by the defendants;
2) to injure a party or witness in her person or property;
3) because she attended federal court or testified in any matter pending in federal court;
4) resulting in injury or damages to the plaintiff.

Wright v. Ill. Dept. of children & Family Services, 40 F.3d 1492, 1507 (7th Cir. 1994). Section 1985(2) also provides a cause of action for denial of access to state courts. Id. A state-court claim requires an allegation of class-based animus; a federal-court claim does not. Id. Plaintiff's § 1985(2) fails on various grounds.

The only allegation in plaintiff's complaint touching on any court proceeding involves a 1987 Massachusetts state court case. That case was not a federal proceeding, so it is not covered by that aspect of § 1985(2). Id. She makes no allegation regarding the prevention of her attendance or testimony at that proceeding which is required to state a claim under either aspect of § 1985(2). Id. Furthermore, the applicable statute of limitations on such a claim is two years, *Wilson v. Giesen*, 956 F.2d 738, 741 (7th Cir. 1992); *Horton v. Marovich*, 925 F.Supp. 540, 544 (N.D.Ill. 1996), which had long since passed by the time plaintiff filed her 2AC in 1994.

Turning to plaintiff's § 1985(3) claim, plaintiff must plead some type of "racial, or perhaps otherwise class-based invidiously discriminatory animus [lay] [sic] behind the conspirators' action." *Bray v. Alexandria Women's Health Clinic*, 506 U.S. 263, --, 113 S.Ct. 753, 758 (1993) (quoting *Griffin v. Breckenridge*, 403 U.S. 88, 102, 91 S.Ct. 17990, 1798 (1971)). While plaintiff claims to be a victim of discrimination because she is a woman and Jewish, her factual allegations tend to undermine such a claim. As noted in our discussion regarding plaintiff [sic] Title VII claims, plaintiff's victimization appears due to her moral sensitivity rather than religion or gender. Her repeated moral outrage at the conduct of the various defendants is well delineated in the 2AC. (2AC ¶¶ 19, 23, 34, 52, 55, 64, 82, 89, 101, 113, 132,

134). She has no tolerance for adultery, promiscuity, or comments regarding same. While admirable, this does not define class-based discrimination.

This flaw in plaintiff's allegations is yet another reason for dismissal of her conspiracy claims.

III. CONCLUSION

It is clear from the most generous reading of plaintiff's complaint that she has failed to state any claim against the defendants, moving or otherwise, under federal law. It is apparent that plaintiff would not be able to state a claim to redress the wrongs she has allegedly suffered under federal law. The law is simply not designed to protect the sensibilities of individuals such as the plaintiff – it cannot be taken that far. Accordingly, plaintiff's federal claims should be dismissed as to all defendants with prejudice. To the extent that the 2AC includes allegations regarding state law claims, those claims should be dismissed as to all defendants pursuant to 28 U.S.C. § 1367(c).

For the foregoing reasons, it is her3eby recommended that plaintiff's Second Amended complaint be dismissed with prejudice as to all defendants.

Respectfully submitted,

S/ Edward A. Bobrick
United States Magistrate Judge

DATE: July 17, 1996

Any objections to this Report and Recommendation must be filed with the Clerk of the Court within ten (10) days of receipt of this notice. Failure to file objections within the specified time waives the right to appeal the District Court's order. *Thomas v. Arn,* 474 U.S. 140 (1985); *The Provident Bank v. Manor Steel Corp.*, 882 F.2d 258 (7th Cir. 1989).

TEXT OF CITED AUTHORITIES

Constitutional Amendment I (BILL OF RIGHTS):

> "Congress shall make no law respecting any establishment of religion, or prohibiting the free exercise thereof, abridging the freedom of speech, or of the press, or the right of the people peaceably to assemble, and to petition the government for a redress of grievances."

Constitutional Amendment IV (BILL OF RIGHTS):

> "The Right of the People to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated, and no warrants shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized."

Constitutional Amendment V (BILL OF RIGHTS):

> "No person shall be . . . deprived of life, liberty or property, without the due process of law; . . ."

Constitutional Amendment XIII:

> "Neither slavery nor involuntary servitude, except as a punishment for crime whereof the party shall have been duly convicted, shall exist within the United States, or any place subject to their jurisdiction."

Constitutional Amendment XIV:

> "Section 1: [No State] shall . . . deprive any person of life, liberty or property without due process of law, nor deny to any person within its jurisdiction the equal protection of the law."

Federal Criminal Code:

18 USC § 241: "If two or more persons conspire **to injure, oppress, threaten or intimidate** any inhabitant of any state, territory, or District in the **free exercise or enjoyment of any right or privilege secured to him by the Constitution or laws of the United States**, or, because of his having so exercised the same; or

"If two or more persons **go** in disguise on the highway, or **on the premises of another, with intent to prevent or hinder his free exercise or enjoyment of any right or privilege so secured** -- . . ."

18 USC § 245(b): "**Whoever**, whether or not acting under color of law, by force or **threat of force willfully injures, intimidates or interferes** with, or **attempts to injure, intimidate or interfere** with --

> (1) any person because he is or has been, or in order to intimidate such person or any other person or any class of persons from (E) **participating in or enjoying the benefits of any program or activity receiving Federal financial assistance**; or
>
> (2) **any person because of his race, color, religion or national origin** and because he is or has been -- (C) **applying for or enjoying employment, or any perquisite thereof, by any private employer** or any agency of any State or subdivision thereof, or joining or using the services or advantages of any labor organization, hiring hall or employment agency; . . . or (E) **traveling in or using any facility of interstate commerce (CTA)** or using any vehicle, terminal, or facility of any common carrier by motor, rail, water or air; . . ."

Civil Rights Act of 1866, codified as 42 USC § 1981; Ku Klux Act of 1871, codified as 42 USC §§ 1983, 1985(2) and (3):

42 USC § 1981: (a) "All persons within the jurisdiction of the United States shall have the same right in every State and Territory to make and enforce contracts, to sue, be parties, give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens, and shall be subject to like punishment, pains, penalties, taxes, licenses and exactions of every kind, and to no other.

(b) The term "make and enforce contracts" includes the making, performance, modification, and termination of contracts and the enjoyment of all benefits, privileges, terms and conditions of the contractual relationship.

(c) The rights protected by this section are protected against impairment by nongovernment discrimination and impairment under color of state law. [The CRA was enacted to support citizens of the United States entitled to the rights and privileges enumerated, and that to deny to any such citizen equality in these rights and privileges with others was, to the extent of the denial, subjecting him to an involuntary servitude. Case law has since established "race" rather than "color" as the criterion, and "slavery" or "servitude" is the condition to be prevented, no matter what the color of one's skin. (USCA, note 1, p.618)]

42 USC § 1983: Every person, who under color of any statute, ordinance, regulation, custom or usage, of any State or Territory or the District of Columbia, subjects or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the **deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity or other proper proceeding for redress**. For the purposes of this section, any Act of Congress applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia.

42 USC § 1985:

> (2) If . . . two or more persons conspire for the purpose of impeding, hindering, obstructing, or **defeating, in any manner, the due course of justice** in any State or Territory, with intent to **deny to any citizen the equal protection of the laws**, or to **injure him or his property** for lawfully **enforcing, or attempting to enforce, the right of any person**, or class of persons, **to the equal protection of the laws**,
>
> (3) If two or more persons in any State or Territory **conspire**, or go in disguise on the highway or on the premises of another, for the purpose of **depriving, either directly or indirectly, any person or class of persons of the equal protection of the laws**, or of **equal privileges and immunities under the laws,** or for the purpose of **preventing or hindering the constituted authorities of any State or Territory from giving or securing to all persons within such State or Territory the equal protection of the law**, or if two or more persons conspire to . . . injure any citizen in person or property on account of [lawful political] support or advocacy; . . .
>
> [and any such conspiracy causes another to be] **injured** in his person or property, or **deprived of having and exercising any right or privilege** of a citizen of the United Sates, the party so injured or deprived may have an **action for the recovery of damages**, occasioned by such injury or deprivation, against any one or more of the conspirators."

Hampton v. Hanrahan, 600 F.2d 600, 620-21 (7th Cir. 1979): Conspiracy means "a combination of two or more persons acting in concert to commit an unlawful act, or to commit a lawful act by unlawful means, the principle element of which is agreement between the parties."

Civil Rights Act of 1964, Title VII, codified as 42 USC § 2000e:

> 42 USC § 2000e-2(a)(1): "It is an unlawful employment practice for an employer to **discriminate against any individual** with respect to his compensation, terms, **conditions, or privileges of employment because of such individual's race, color, religion, sex or national origin."**
>
> 42 USC § 2000e(b): An employer is any "person engaged in an industry affecting commerce and any agent of such person."
>
> 42 USC § 2000e(j): Religion means "all aspects of religious observance and practice, as well as belief"

Code of Federal Regulations, Chapter 29:

> 29 CFR § 1604.11(a): Sexual harassment means "unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature . . . [when] such conduct has the **purpose or effect of** unreasonable **interference with an individual's work performance** or creating an **intimidating, hostile or offensive working environment**.

Meritor v. Vinson, 477 U.S. 57, 67 (1985) Title VII is violated 'when [the environment] is permeated by discrimination, ridicule and insult that is sufficiently severe or pervasive as to alter the condition of the victim's employment and to create an abusive working environment'

Harris v. Forklift, 114 S.Ct. 367, 371 (1993) Conduct that "detracts from job performance, discourages remaining on the job, keeps employees from advancing in their career," . . . "without regard to tangible effects, . . . conduct so severe that it creates a work environment abusive to employees because of race, gender, religion or national origin, offends Title VII's broad rule of workplace equality"

Age Discrimination in Employment Act of 1967, codified as 29 USC §623

> 29 USC § 623: "It shall be unlawful for an employer -- 1) to fail or **refuse to hire or to discharge** any individual or otherwise **discriminate against** any individual with respect to his **compensation, terms, conditions or privileges of employment, because of such individual's age**; -- 2) to **limit, segregate or classify** his employees **in any way which would deprive or tend to deprive any individual of employment opportunity** or otherwise adversely affect his status as an employee because of such individual's age; or 3) to **reduce the wage rate** of any employee in order to comply with this Act. . . ."

Educational Amendments of 1972, Title IX, codified as 20 USC § 1681, *et seq*

> 20 USC § 1681, *et seq*: (a) "No person in the United States shall, on the **basis of sex, be excluded from participation in, denied the benefits of, or be subjected to discrimination under any educational program** or activity receiving Federal financial assistance." (excepting private religious schools, etc.)

Women's Educational Opportunities Act of 1988, codified as 20 USC § 3041, *et seq*

> 20 USC § 3041, *et seq*: (b)(2) "The purpose of this part is **to provide educational equity for women** in the United States and to provide **financial assistance** to enable educational agencies and institutions to meet the requirements of Title IX of the Educational Amendments of 1972 (20 USCA § 1681 *et seq.)*. Also, the purpose of this part is to provide **educational equity for women and girls who suffer multiple discrimination, bias or stereotyping based on sex and on race, ethnic origin,**

disability or age."
and

42 USC § 2000d, as amended: "No person in the United States shall, on **the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program** or activity receiving Federal financial assistance." [(2)(A): [Program includes] "a college, university or other postsecondary institution, or a public system of higher education; or (B) a local educational agency, system of vocational education or other school system."]
Fair Housing Acts of 1968 and 1988, 42 USC § 3601, *et seq.*

> 42 USC § 3604: ". . . [I]t shall be **unlawful** . . . (a) to **refuse to sell or rent** after the making of a bonafide offer, or to **refuse to negotiate for the sale or rental** of or **otherwise make unavailable or deny, a dwelling** to any person **because of race, color, religion, sex, familial status, or national origin.**
>
> "(b) **to discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in concert therewith, because of race, color, religion, sex familial status or national origin**. . . ."

CASES

Adickes v. Kress & Co., 398 U.S. 144, 1589-59 (1970) (circumstantial evidence sufficient to establish conspiracy; inferred meeting of the minds regarding accomplishment of conspiratorial objectives)

Albemarle Paper Co. v. Moody, 422 U.S. 405, 418 (1975) (Congressional intent: "filing charges with the EEOC should not be construed to erect a jurisdictional prerequisite to suit"; Title VII has "broad goal of elimination of discrimination," intent "to provide ***all necessary relief*** and to ***ensure complete justice***")

Antonelli v. Sheahan, 81 F.3d 1422, 1427 (7th Cir. 1996) (duty to view the complaint in the light most favorable to plaintiff, and to draw all reasonable inferences from the facts in favor of plaintiff)

Boben v. City of East Chicago, IN, 799 F.2d 1180, 1185-86 (7th Cir. 1986) ("discrimination and harassment of an individual woman because of her sex is a violation of the equal protection clause" (1187)

Bougher v. Univ. of Pittsburgh, 882 F.2d 74, 79 (3d Cir. 1989) (42 USC §§ 1983 and 1985(3) Illinois cases are governed by a two-year statute of limitations on personal injury claims)

Box v. A&P Tea Co., 772 F.2d 1372 (7th Cir. 1985) ("handwritten addendum to typed charge of race discrimination, also suggesting sex discrimination, sufficient to permit judicial claim")

Brainerd v. Potratz, 421 F.Supp. 836, 840 (N.D.Ill. 1976) (citing *Turner v. Baxley*, 354 F.Supp. 963, 974 (D.Vt. 1972) (requires statement of class-based animus; leave to amend complaint granted)

Bray v. Alexandria Women's Health Clinic, 506 U.S. 263, 274 (1993) ("Invidious" means tending to excite odium, ill will or envy"; "likely to give offense, especially unjustly and irrationally, discriminating")

Bugg v. Allied Industrial Workers Local 507, 674 F.2d 595 (7th Cir.) (doctrine of continuing wrongs applies waiver and estoppel of statute of limitations bar regarding actions related to Title VII discrimination cases; inapplicable when there is immediate and direct injury with consequential effects (American Law of Torts, § not on point because of long-term continuing nature of the defamatory and slanderous events and deeds, fo which the cause(s) (often concealed) and damaging consequences were not immediately apparent [no trouble finding a job before; time needed to prove (or believe) black-listing] or victim relies on misleading legal advice constituting malpractice [Azulay's saying nothing could be done about it].

Byrd v. Clark, 783 F.2d 1002 (6th Cir. 1986) (distinguished from instant case because of multiple conspirators; see also, *Gilmere, Volk, e.g.*, where no dispute of fact, burden of the defendant to prove truth or

falsehood; where plaintiff's evidence contains question as to material facts, to dismiss the case would be to err; non-supervisory officers or employees of a single entity employer are responsible to stop the wrongful acts of supervisory officers ("otherwise, . . . [they would be insulated] from liability for reasonably foreseeable consequences or neglect of their duty to enforce the laws and preserve the peace") (1007); although no proper §1985 claim under single entity – no conspiracy theory, and no racial issue, a causal link existed between official (county) policy and the injury plaintiff sustained under §1983 (1007-08).)

Cada v. Baxter Healthcare Corp. 920 F.2d 446, 450-51 (7th Cir. 1990) (equitable tolling avoids the bar of statute of limitations if despite due diligence, vital information bearing on existence of claim is unable to be obtained).

Caplan v. Internat'l Fidelity Ins. Co., 885 F.Supp. 175 (N.D.Ill. 1995) (leave to file amended complaint granted to show sufficiency of emotional distress and fraud (179)).

Carpenters v. Scott, 463 U.S. 825, 847 n.10 (class-based animus aimed at deprivation of constitutional right secured not only against official infringement but against private action as well; "fundamental rights supercede narrow specific views" and "the Novotny Court's statements should not be given independent significance" [relied upon in subsequent cases] without real analysis of the issues).

Carr v. Allison Gas, 32 F.3d 1007, 1009 (7th Cir. 1994) (plaintiff need show only that conditions of employment were adversely affected in order to state a claim under Title VII).

Central Bank v. First Interstate Bank, -- U.S. --, --, 114 S.Ct. 1439, 1455 (1994) (anachronistic error not to accord private right of action when common law presumption implies such right to the class for whom such statute(s) was/were enacted; retention of private right of action to sue those primarily liable for fraud while dissenting opinions (four in number) urge right of action against aiders and abettors because aider and abettor liability was/is an important part of SEC enforcement. By analogy, the ruling extends to EEOC enforcement against discrimination by employers – in the instant case, by employers in collaboration with

plaintiff-appellant's landlords, religious advisers, newspapers and local merchants aiding and abetting the discrimination).

Chambers v. American Trans Air, Inc., 17 F.3d 998, 1003 (7th Cir. 1994) (proper to subvert the statute of limitations if a pattern of discrimination extends into the limitations period)

Chapman v. Musich, 726 F.2d 405, 408 (8th Cir. 1984) ("a complaint is not to be dismissed 'merely because a Plaintiff's allegations do not support the particular legal theory he advances,' for a court is under a duty to examine the complaint to determine if the allegations provide for relief ***on any possible theory***").

Chappell v. Emco Machine Works Co., 601 F.2d 1295 (1979 CAS Tex) (cases with similar combinations of statutes, facts, potentially applicable civil rights violations and resultant injuries continue to be decided on a case-by-case basis in the most equitable and just manner in the premises).

Chapski v. Copley Press, 442 N.E.2d 195, 65 Ill.Dec. at 889) (under Illinois law, a "statement that logically refers to a particular person may be the subject of a defamation action, even though the statement does not refer to such person by name")

Cheek v. Western and Southern Life Ins. Co., 31 F.3d 497, 504-505 (7th Cir. 1994) (married woman discriminated against by insurance industry; court too narrow in its ruling)

Christian Populist Party of Arkansas v. Secretary of State of State of Arkansas, 650 F.Supp. 1205, 1214 (E.D.Ark. 1986) (not on point; claims did not fail because of Sec. 241)

City of Greenwood, Mississippi v. Peacock, 384 U.S. 808 (1966) (where no citizen has a right to commit offense complained of, remand to federal court is not proper).

Cok v. Cosentino, 876 F.2d 1 (1st Cir. 1989) (Section 241) (although state actor defendants had absolute immunity under a court order, pro se plaintiff should have been advised how to redress grievances

appropriately; judicial authority might be exceeded, rendering deeds actionable under 42 USC § 1983 or state tort law. Judicial immunity only extends to acts which do not exceed judicial jurisdiction.)

Colaizzi v. Walker, 542 F.2d at 972-74 ("plaintiff need only allege the denial of a property or liberty interest that is arguable or putatively plausible under state law or the Bill of Rights, in order to allege . . . a federal claim for stigmatization of reputation, good name or integrity").

Conley v. Gibson, 355 U.S. 41, 47 (1957) ("pleading is not a skill in which one misstep dooms the suit"; rather, "the purpose of pleading is to facilitate proper decision on the merits," in accord with the "substantial justice" contemplated by Fed.R.Civ.P. 8(f)").

Continental Ore Co. v. Union Carbide & Carbon Corp., 370 U.S. 690 (1962) (when different inferences can be drawn from the facts alleged, rather than judicial interpretation, a jury is to weigh the contradictory evidence and inferences (621)).

Corcoran v. Chicago Park Dist., 875 F.2d 609 (7th Cir., 1989) (latitude appropriately extended to *pro se* plaintiffs)

Creech v. Federal Land Bank of Wichita, 647 F.supp. 1097, 1099 (D.Colo. 1986) (encouraged pursuit of claims in state court, dismissed RICO claims without prejudice, and upheld the latitude [extended] to *pro se* plaintiffs).

Cross v. State of Ala., 49 F.3d 1490, 1507-09 (11th Cir. 1995) ("circumstantial evidence may establish a § 2520 claim"; and a jury may determine a violation of plaintiff's rights under the statute; waiver is available when notice has been given to the employer in other way than through the EEOC – employer had knowledge of the harassment by complaint to higher management of the problem or by pervasive nature of the harassment so that the inference of constructive knowledge arises").

Culp v. U.S., 131 F.2d 93 (CCA Ark. 1942) (statute of limitations does not run until the last overt act leading to accomplishment of the conspiracy has been committed)

Daniels v. Essex Group, Inc., 937 F.2d 1264, 1274-75 (7th Cir. 1991) ("later acts of [racial, religious or sexual] harassment must be considered in the context of ten years of verbal taunting"; pervasive pattern of racial [sexual] jokes sufficient to sustain a hostile environment claim)

DeShaney v. Winnebago DSS, 489 U.S. 189 (1989) (failure to provide police protection is abuse of power).

Dey v. Colt Const. & Devpt. Co., 28 F.3d 1446, 1454-55, 1458-60 (7th Cir. 1994), citing 58 Fed.Reg. 51266, 51269, Prop. 29 CFR . § 1609.1(d)) *Holding:*

1. Discriminatory alteration of working conditions is test of discrimination, not whether or not work is imparied (114 S.Ct., at 372); daily comments (sex banter) which prevented plaintiff from completing work in a timely fashion was discriminatory alteration*);*

2. Criterion of hostile environment is "not what a reasonable female employee is capable of enduring, but whether the offensive acts alter the conditions of employment";

3. Absence of noticeable decline in job productivity not emphasized where ample evidence shows that the campaign of harassment had an impact on its target and made it more difficult for her to perform her job;

4. Statements considered objectively isolated, innocuous and not actionable become actionable when part of a series [a regular or daily occurrence is sufficiently severe and pervasive to create a hostile environment];

5. "Pervasive pattern of racial [sexual] jokes sufficient to sustain a hostile environment claim;

6. In retaliatory discharge, circumstantial evidence sufficient to establish inference of employer awareness of harassment complaint;

7. Summary judgment improper where employee with discriminatory animus provided information that may have effected the adverse employment;

8..Summary judgment improper where supervisor who made age-related remarks (Judd and Nickerson) participated in ranking the performance of employees and in the eventual decision to terminate the plaintiff's employment);

9. Reasonable jurors could conclude that supervisor intent upon

purging the workforce of older employees [women] lied to his supervisors about the quality of plaintiff's job skills.

10. Employers cannot escape responsibility for sex discrimination 'when facts on which the reviewers rely have been filtered by a manger determined to purge the labor force women';

11. Evidence is sufficient to support sex discrimination case where supervisor's discriminatory animus was reflected in the information he provided to the ultimate decisionmakers;

12. Plaintiff may create an issue of fact regarding employer credibility by refuting an employer's claim of performance deficiencies, showing animus of employer exaggeration and pretext for discrimination.

Doe v. R.R. Donnelly & Sons Co., 42 F.3d 439 (7th Cir. 1994)(relief from a time-barred act obtainable by linking it with an act within the limitations period)

Eggleston v. Chicago Journeymen Plumbers' Local Union No. 130 U.A., 657 F.2d 890, 907 (7th Cir. 1981) (conciliation is not an inalienable right of Title VII defendants; the courts must give way to Plaintiff's right to sue appropriate parties).

Fannie v. Chamberlain, 445 F.Supp. 65 (W.D. Pa. 1977) (§ 1985(3) provides remedy for . . . and reaches discrimination on the basis of sex, with females members of a class protected by (§ 1985(3))

Franks v. Bowman Transportation Co., 427 U.S. 747 (1976) (Congressional intent: "filing charges with the EEOC should not be construed to erect a jurisdictional prerequisite to suit"; "emphatic confirmation that the federal courts are empowered to fashion such relief as the particular circumstances of a case may require to effect restitution, making whole in so far as possible the victims of . . . discrimination").

Galloway v. Gen'l Motors Service Parts Oper., 78 F.3d 1164, 1167 (7th Cir. 1996) (although "merely vulgar, sporadic and annoying comments or conduct are not actionable, when the same conduct or comments are repeated constantly, they become seriously harassing through dint of repetition and are therefore actionable").

Georgia v. Rachel, 384 U.S. 780 (1966) ("formal expression of state law violates right to ber protected by Constitution, removal to federal court is proper")

Gilmore v. City of Atlanta, 774 F.2d 1495 (11th Cir. 1985) (parallel tort remedy does not preclude a plaitniff from asserting substantive due process violations in the federal courts under 42 USC § 1983 (1006)).

Gooden v. Neal, 17 F.3d 925, 929 (7th Cir. 1994), citing 20 ILCSA, 415/19c.1) (state law claim of wrongful retaliation and federal claim of first amendment violation raise distinct legal theories)

Great Am. Fed. Sav. & Loan Ass'n. v. Novotny, 442 U.S. 366 (1979) (more than one act of an employer by agreement of two or more officers of the company constitutes intracorporate conspiracy (bypassing no-conspiracy theory); Title VII can be the basis of a § 1985(3) claim (366). [Although] Title VII administrative provisions [are] bypassed by § 1985(3) claims, Title VII can be the source of a right asserted in a § 1985(3) action" (366).

Griffin v. Breckenridge, 403 U.S. 88, at 104 (extends Section 241 to private conspiracies, and private rights of action)

Gusman v. Unisys, 986 F.2d 1146, 1147 (7th Cir. 1993) (reasonable jurors could conclude that supervisor intent upon purging the workforce of older employees lied to his supervisors about the quality of plaintiffs' job skills).

Hack v. Oxford Health Care, Inc., 562 F.Supp. 295, 296 (N.D. Ind. 1983) ("on motion to dismiss, all allegations of plaintiff's complaint must be construed in the light most favorable to plaitniff (allegations taken as true)" (296, quoting Scheuer v. Rhodes, 416 U.S. 232).

Haines v. Kerner, 404 U.S. 519, 520, 92 S.Ct. 594, 595, 30 L.Ed.2d 652 (1972) (per curiam) ("read the *pro se* party's supporting papers liberally and interpret them to raise the strongest arguments that they suggest")

Hampton v. Hanrahan, 600 F.2d 600, 620-21 (7th Cir. 1979) (the nature of conspiracy is that it is "unlikely that [non-circumstantial] evidence

will exist"" all that is necessary is that there is a ""possibility that a jury can infer from the circumstances that alleged conspirators have/had a meeting of the minds and reached an understanding to achieve conspiratorial objectives"; no liability under conspiracy claims is necessary for liability under § 1986 – join as defendants those who fail to stop conspiracy even if not active co-conspirators.

Harris v. Forklift, 114 S.Ct., 367 (1993), 126 L.Ed.2d 295 93 CDOS 8330, 93 Daily Journal DAR 14212, 63 BNA FEP CAS 225, 62 CCH EPD Para. 42623 (discriminatory intimidation, ridicule or insult sufficiently severe or pervasive to alter the conditions of employment and create an abusive work environment violates Title VII; harassment violates Title VII when "hostile conduct, the purpose or effect of which is unreasonable interference with an individual's work performance," alters the terms, conditions or privileges of the victim's employment; Title VII extends to conduct that "detracts from job performance, discourages remaining on the job, and keeps from advancing in career").

Harris v. Johnson, 731 F.Supp. 846 (N.D.Ill. 1989) ("stigma plus" test for deprivation of liberty interest protected by the 14th Amendment – met by both defamation "plus" foreclosure from employment)

Harrison v. Springdale Water & Sewer Co., 780 F.2d 1422 (8th Cir. 1986) (court to infer whatever grounds the facts imply to counseled litigants and to attorneys whose knowledge of the laws and available causes of action is obviously greater than that of a non-attorney pro se plaintiff; court under duty to examine facts for grounds for ***relief on any possible theory*** no matter what particular legal theory is asserted by the plaintiff (1426, quoting Chapman v. Musich, 726 F.2d 405, 408 (8th Cir. 1984) *Emphasis added.*

Heidelberg v. Hammer, 577 F.2d 429 (7th Cir. 1978) (*pro se* litigant must be given leave to amend when advised of specific defects in pleading)

Hishon v. King & Spalding, 467 U.S. 69, 73 (1984) (dismissal improper unless clear that no relief could be granted under any set of facts)

Huddleston v. Roger Dean Chevrolet, Inc., 845 F.2d 900, 904 (11th Cir. 1988) (waiver is available when notice has been given to the employer in

other ways than through the EEOC – employer had knowledge of the harassment by complaint to higher management of the problem or by pervasive nature of the harassment so that the inference of constructive knowledge arises).

Irwin v. Dept. of Veterans' Affairs, 498 U.S. 89 (1990) (equitable tolling proper where claimant has pursued judicial remedies by filing defective pleadings during the statutory period and where plaintiff induced or tricked by adversary misconduct into allowing filing deadline to pass)

Jenkins v. Blue Cross Mut. Hosp. Ins. Inc., 538 F.2d 164 (7th Cir. 1976) ("claims are cognizable that are 'like or reasonably related to' the allegations of the charge and growing out of such allegations").

Jeridien v. Winston Network, Inc., 888 F.2d 1151 (7th Cir. 1989) (where decisionmaker accepted input from supervisor with discriminatory motive, age discrimination a question for jury determination).

John's Insulation, Inc. v. Siska Const. Co., 774 F.Supp. 156 (S.D.N.Y. 1991) (Section 245 case dismissed only because lack of companion tort claim with discriminatory conspiracy claim – New York law question. Tort claims of libel and slander were remanded and recovery allowed thereupon. – "factual allegations of non-moving party's pleadings [must be taken] as true and construed in the light most favorable to that party"). Although no filing with the EEOC, principles against discrimination in employment remain within the broad scope and purpose of the federal civil rights laws, especially when pleaded in conjunction with interference with basic fundamental rights and liberties guaranteed by the Constitutional amendments; under such circumstances, filing with the EEOC is not prerequisite to suit.

Johnson v. Railway Express Agency, 421 U.S. 434, 95 S.Ct. 1716, 44 L.Ed. 2s 295 (1975) (in borrowing the state statute of limitations period[s], the federal courts do not need to borrow the state tolling statutes as well because of available federal rules (840-841)).

Jones v. Commander, Kan. Army Communications Plant, Department of the Army, (1993, D.C. Kan.), 147 FRD 248 (when "determining whether or not a hostile environment of sexual harassment has taken place, focus

on the perspective of the victim").

Jones v. City of Chicago, 356 F.2d 985 (7th Cir. 1988) (supervisors responsible for actions of subordinates when aware of their misconduct and fail to take action to correct the misconduct).

Jordan v. City of Chicago, Department of Police, 505 F.Supp. 1 (N.D.Ill. 1980) (City accountable under *respondeat superior* for acts of City police; express or implied authorization or approval of police misconduct by the City (policy express or implied) ***or its supervisors*** constitutes a civil rights cause of action) (Emphasis added).

Kadlec v. Illinois Bell Telephone Co., 407 F.2d 624, 627 (7th Cir. 1969) (not on point because filing phone co. regulations with the state for state approval was insufficient to bring the action under the jurisdiction of 42 USC § 1983).

Kaliman v. IDOC, 879 F.2d 276, 277 (7th Cir. 1989). (42 USC §§ 1983 and 1985(3) Illinois cases are governed by a two-year statute of limitations on personal injury claims).

Kientzy v. McDonnell Douglas Corp., 990 F.2d 1051, 1057-60 (8th Cir. 1993) (evidence is sufficient to support sex discrimination case where supervisor's discriminatory animus was reflected in the information he provided to the ultimate decisionmakers).

King v. Hillen, 21 F.3d 1572, 1581 (Fed.Cir. 1994) ("realistic picture of work environment is not obtained by viewing each incident in isolation"; criterion of hostile environment is "not what a reasonable female employee is capable of enduring, but whether the offensive acts alter the conditions of employment" (1583)).

Koelsch v. Beltone Electronics Corp., 46 F.3d 705, 707 (7th Cir. 1995) (under the continuing violations theory, relief from the time-barred act obtainable by linking it with an act within the limitations period; when a later act duplicates or repeats previous act(s), the combination is treated as "one continuous act that ends within the limitations period.")

Komel v. Jewel Cos., 874 F.2d 472, 474-75 (7th Cir. 1989) (Plaintiff may create an issue of fact by specifically refuting facts that allegedly support an employer's claim of performance deficiencies).

Koski v. Gainer, 63 FEP Cas BNA 939 (N.D.Ill. 1993), No. 92 C3293. (reverse discrimination under § 1981 is specifically actionable where "injury in fact is denial of equal treatment resulting from imposition of a barrier" based on race or color, including white.)

Kunik v. Racine County, Wis., 946 F.2d 1574, 1580-1582 (7th Cir. 1991) (remanded for trial because not clear that "no relief could be granted under any set of facts that could be proved consistent with the allegations").

Larry v. Lawler, 605 F.2d 958, 959 (7th Cir. 1978) (length of wrongful deprivation is an important factor in assessing th4 impact of "official" action on private interests, including extent of injury and damages therefrom).

Lessman v. McCormick, 591 F.2d 605 (10th Cir. 1979) (discovery proper to establish facts and inferred linkage in conspiracy cases rather than dismissal).

Magnussen v. Peak Technical Services, 808 F.Supp. 500 (E.D.Va. 1992) (Title VII employer and §1985(3) individual liability determined by reference to "extent of the employer's right to control the means and manner of the worker's performance," citing 42 USC §§ 2000e(b) and 2000e-2(a)(1), by degree of control over terms and conditions of employment; unconventional employer (deal of outsider to hire or fire) control of conditions of employment; prima facie case of sex discrimination where evidence reflects sexist attitudes; and employer is liable for sexual harassment by non-employee ("agent") where the employer does not correct the situation within its control and when the employer knows or "has reason to know" of the non-employee's conduct (EEOC Dec. 84-3, 34 Fair Empl. Prac.Cas. (BNA) 1887 (1984), 29 CFR §1604.11(e) (501,512)).

Manny v. Department of Transportation, 664 F.Supp. 1210 (N.D.Ill. 1987) (where defect[s] in complaint are curable, district court retains

jurisdiction over the action, dismissal of complaint not resulting in dismissal of the action (28 USC § 1332(a,c)).

McCottrell v. EEOC, 726 F.2d 350, 351 (7th Cir. 1984) ("inappropriate to hold *pro se* litigants to same standard set for counseled litigants")

Meadows v. Ford Motor Co., 510 F.2d 939 (6th Cir. 1974) (courts to focus on sex discrimination with equal force as race discrimination)

Medina v. Spotnail, Inc., 591 F.Supp. 190, (N.D.Ill. 1984) (administrative remedies of Title VII do not estend to retaliatory discharge, Illinois' public policy against involuntary employment (48 Ill.Rev.Stat. § 300), loss of immunity [as conspirators] by personally interested corporate officers who act outside the scope of their corporate authority, and allowance of pendant jurisdiction of state claims for thesake of judicial economy (196-198). *Medina* found in plaintiff's favor on defamation claims).

Meritor v. Vinson, 477 U.S. 57 (1986) (a regular or daily occurrence is sufficiently severe and pervasive to create a hostile environment).

Merrill, Lynch v. Curran, 456 U.S. 353, 394 (1982) ("common law presumption . . . that a statute enacted for the benefit of a particular class confer[s] on members of that class the right to sue violators of that statute").

Milburn v. Blackfrica Promotions, Inc., 392 F.Supp. 434 (S.D.N.Y., 1974) (intracorporate no conspiracy theory overturned by *Volk, et al., infra* (1988).)

Munson v Friske, 754 F.2d 683, 695 (7th Cir. 1985) (§1985(3) liability for damages extends to discrimination on the basis of sex, religion, ethnicity or political loyalty).

Owens v. Okura, 488 U.S. 235, 250, 109 S.Ct. 573, 102 L.Ed.2d 594 (1989) ("where state law provides multiple statutes of limitations for personal injury actions, the courts considering §1983 claims should borrow the general or residual rule/statute for personal injury actions").

Palmer v. General Mills, Inc., 513 F.2d 1040 (intention of 42 USC §2000e-2 I on the consequences, the damages to the worker, of employment practices (defamation and impaired working conditions), to ***eradicate discrimination*** and continuing ***effects of past discrimination*** which inhere in present practices and continue past injustices).

Paul v. Davis, 424 U.S. 693 ("stigma plus test")

Pendrell v. Chatham College, 386 F.Supp. 541 (W.D.Pa. 1974) (§1985(3) reaches discrimination on the basis of sex, with females members of a class protected by §1985(3)).

Raskin v. U. of Pa., 386 F.Supp. 992, 1005-06 (E.D.Pa., 1974) (where "two or more corporate officers by agreement commit different discriminatory acts against a plaintiff, . . . a §1985(3) violation has taken place" (*see also*, *Volk v. Coler*, 845 F.2d 1422, 1434 (7th Cir. 1988).)

Reese v. City Police Dept., 602 F.Supp. 441, 443 (N.D.Ill. 1984) (police department no "separate legal existence from the city" (441); suprression of evidence violates due process, a constitutionally protected right to defense materials (443); suit for damages against the City under 42 USC §1983 was proper).

Robinson v. PPG Indus. Inc., 23 F.3d 1159, 1165-66 (7th Cir. 1994) (summary judgment improper where supervisor who made age-related remarks participated in ranking the performance of employees and in the eventual decision to terminate the plaintiff's employment.

Rodgers v. Western-Southern Life Ins. Co., 12 F.3d 668, 674 (7th Cir. 1993) ("court must consider the cumulative weight of several "isolated . . . comments").

Scherer v. Balkema, 840 F.2d 437, 400 (7th Cir., 1988) (claim accrues when injured becomes aware he is suffering from wrong for which damages may be recovered in a civil action).

Scheuer v. Rhodes, 416 U.S. 232 ("factual allegations of non-moving party's pleadings [must be taken] as true and construed in the light most favorable to that party").

Schnellenbaecher v. Baskin Clothing Co., 887 F.2d 124 (7th Cir. 1989) (caims under Title VII upheld because of EEOC's prior error either in not investigating the claim or not giving sufficient notice to the defendant(s); upheld principle that proper claim should not be masked or refused by the EEOC nor the plaintiff penalized for an EEOC error or failure to issue a "right to sue" letter; exception to the rule of filing with the EEOC exists where "unnamed parties have been provided with adequate notice of the charge [through any other circumstances] . . . where the party has been given the opportunity to participate in conciliation proceedings aimed at voluntary compliance" (126).)

Selan v. Kiley, 969 F.2d 560 (7th Cir. 1992) (when a later act duplicates or repeats previous act(s), the combination is treated as "one continuous act that ends within the limitations period).

Shager v. Upjohn Co., 913 F.2d 398, 405 (7th Cir. 1990) (dismissal improper where plaintiff's supervisor 's discriminatory animus tainted his assessment of plaintiff's performance on which decisionmaker relied).

Singleton v. City of New York, 632 F.2d 185, 192 (2d Cir. 1988) (claim accrues when injured becomes aware he is suffering from wrong for which damages may be recovered in a civil action).

Smith v. City of Chicago Heights, 951 F.2d 834, 839 (7th Cir. 1992) (five-year statute of limitations applies in instances of fraudulent concealment; statute of limitations begins when concealed cause of action discovered, whether or not the identity of the wrongdoer is known.)

Sparkman v. McFarland, 601 F.2d 261 (7th Cir. 1979) (not on point as to immunity of police actions: police officers' actions not necessarily immune; particularity in pleading exceeds Fed.R.Civ.P.8(a)(2) especially without motion for more definite statement; ;since conspiracy involves clandestine plans and deeds, inference of meeting of minds based on facts pled is sufficient.)

Stacks v. SW Bell Yellow Pages, Inc., 27 F.3d 1316 (8th Cir. 1994) (employers cannot escape responsibility for sex discrimination "when

facts on which the reviewers rely have been filtered by a manager determined to purge the labor force of women")

Staelens v. Yake, 432 F.Supp. 834, 838 (N.D.Ill. 1977) (religious rights do not give "liberty to expose . . . [anyone] . . . to ill health or death" *(Prince v. Mass.*, 3221 U.S. 158, 166).

Stevens v. Tillman, 855 F.2d 394, 404 (7th Cir. 1988) (*Novotny* is not the "last word" or "final conclusion" regarding §1985(3) – understanding thereof includes "constantly changing interpretation"; cases with similar combinations of statutes, facts, potentially applicable civil rights violations and resultant injuries decided on a case-by-case basis in the most equitable and just manner in the premises; under Illinois law, a "statement that logically refers to a particular person may be the subject of a defamation action, even though the statement does not refer to such person by name" (*Chapski v. Copley Press*, 442 N.E.2d 195, 65 Ill.Dec. at 889); and there is no direct reference requirement under USC Constitutional Amendment 1 (*Saenz v. Playboy Enterprises Inc.*, 841 F.2d 1309, 1313-17 (7th Cir. 1988).

Strzelicki v. Schwarz Paper Co., 824 F.Supp. 821 (N.D.Ill. 1993) (Title VII has broad remedial purpose: "if people who make discriminatory decisions don't have to pay for them, they may never alter their behavior and the wrongdoers may elude punishment entirely, while the victim may receive no compensation whatsoever"; "broad goal of elimination of discrimination," its intent to provide all necessary relief and to ensure complete justice.)

Tarkowski v. Robert Bartlett Realty Co., 644 F.2d 1204 (7th Cir. 1980) (facts necessary to infer meeting of minds insufficient; in conspiracy, discovery proper to establish facts and suspected or inferred "linkage" rather than dismissal (1208); pro se litigants allowed to replead when made aware of specific deficiencies in pleading (1207).)

U.S. v. Guest, 383 U.S. 745 (1966) (equal protection clause rights created by call of state police and use of judicial action by private party to carry out racial discrimination (756); allegations of cooperative action without proof are enough to prevent dismissal (757); Justice Clark's opinion stated that "the specific language of Section 5 of the 14th Amendment

empowers Congress to enact laws punishing all conspiracies with or without state action which interfere with 14th Amendment rights" (762); and Justice Brennan's dissenting opinion included the observation that §241 "prohibits all conspiracies which interfere with a right secured by the Constitution").

Vakharia v. Swedish Covenant Hospital, 824 F.Supp. 7669 (N.D.Ill. 1993) ("if people who make discriminatory decisions don't have to pay for them, they may never alter their behavior and the wrongdoers may elude punishment entirely, while the victim may receive no compensation whatsoever. That outcome is incompatible with the broad remedial purposes of Title VII" (786), its "broad goal of elimination fo discrimination," its intent to provide all necessary relief and to ensure complete justice"(786). *Holding:*

1. Unnamed defendants whose acts were described in the complaint could be included as named defendants (769);
2. Defendants may be liable under Title VII even if not the employer(s) (42 USC §1983) (771);
3. If discrimination impedes a person's access to employment opportunities with third parties, defendant is liable under Title VII, §1981 or ADEA (29 USC §621 *et seq.*) (771);
4. Conciliation is not an inalienable right of Title VII defendants; the courts must give way to plaintiff's right to sue appropriate parties (774);
5. Decision-making employees are liable in an individual capacity under ADEA, Title VII and 42 USC §1981 for discriminatory acts (785);
6. Title VII has two purposes: a) to compensate the victims of discrimination; and b) to deter discrimination in the future (785).

Volk v. Coler, 845 F.2d 1422, 14343 (7th Cir. 1988) ("discrimination and harassment of an individual woman because of her sex is a violation of the equal protection clause" (1433); §1985(3) liability for damages extends to discrimination on the basis of sex, religion, ethnicity or political loyalty and does not require class-wide discrimination; not necessary to prove class-based animus for §§ 1983 and 1985(3) claims (1434) and §1985(3) does extend to intra-entity conspiracies.

Walker v. Carter, 820 F.Supp. 1095, 1097 (C.D.Ill. 1993) ("when determining genuine issue(s) of material fact, the evidence [must be construed] in the light most favorable to the non-moving party").

Walker v. Georgia, 417 F.2d 1 (1969) (removal to District Court proper if state prosecution is for the purpose of punishing the exercise of rights secured by the Civil Rights Act).

Weiland v. Byrne, 392 F.Supp. 21 (N.D.Ill. 1975) (not on point: single incident rather than repeated stalking and pattern of discrimination rising to constitutional deprivation of rights).

Wheeler v. Southland Corp., 875 F.2d 1246 (CA6 Ohio, 1989) (no need to mention harassment conditions in resignation letter); *Hunter v. Countryside Assoc. for Handicapped, Inc.*, 710 F.Supp. 233 (N.D.Ill. 1989); *Levendos v. Stern Entertainment, Inc.* 860 F.2d 1227 (CA3 Pa 1988)).

Williams v. Banning, 72 F.3d 552 (7th Cir. 1995) (individual employer liable under Title VII if serves in supervisory position and exercises sufficient control over hiring, firing or conditions of employment of plaintiff, citing *Paroline v. Unisys Corp.*, 879 F.2d 100, 104.)

Wilson v. Giesen, 956 F.2ed 736 (7th Cir. 1992) (claim accrues when the victim knows or has reason to know of injury giving rise to cause of action; when injured becomes aware he is suffering from wrong for which damages may be recovered in a civil action).

Wright v. Dept. of Children and Family Services, 40 F.3d 1492 (7th Cir. 1994) (intra-corporate conspiracy doctrine bars construction of conspiracy between officers and/or employees of the same entity unless the doctrine must be set aside and overruled when egregious and pervasive circumstances so indicate).

Yick Wo v. Hopkins, 118 U.S. 356 (1886) (government may not "selectively deny its protective services to certain disfavored minorities

without violating the equal protection clause"; failure to protect is an abuse of power).

Zipes v. Trans World Airlines, Inc., 455 U.S. 385, 398 (1990) (compliance with the filing period is not a jurisdictional prerequisite to filing a Title VII suit, but a requirement subject to waiver as well as tolling when equity so requires; waiver or tolling is consistent with the remedial purpose of the legislature without negating the purpose of the filing requirement, to give prompt notice to the employer, who has access to notice in other ways).

(3)

Supreme Court, U.S.
FILED
DEC 29 1997

No. 97-909

IN THE

Supreme Court of the United States

OCTOBER TERM, 1997

LINDA MADDOX,

Petitioner,

v.

CAPITOL BANKERS LIFE INSURANCE COMPANY, *et al.*,

Respondents.

On Petition for Writ of Certiorari to the United States Court of Appeals for the Seventh Circuit

BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED

Petitioner Linda Maddox identifies no question of proper significance to call for a writ of *certiorari* to issue to the United States Court of Appeals for the Seventh Circuit.

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OPINIONS BELOW

All of the opinions below—the report and recommendation of the United States magistrate judge, the memorandum and order of the United States district judge, the modified memorandum and order of the United States district judge, and the order of the United States Court of Appeals for the Seventh Circuit—are unreported. They are reproduced in the appendix to Ms. Maddox's Petition. Her Petition itself adequately describes the substance of those opinions, except for its gross distortion of the Seventh Circuit's reason for summarily affirming the District Court's dismissal of her Second Amended Complaint. It is the purpose of this Brief in Opposition, consistent with Supreme Court Rule 15.1, to correct that distortion.

STATEMENT

Ms. Maddox insists that she is victim to a wide-ranging and pervasive conspiracy perpetrated against her by a disparate array of defendants—religious organizations, commercial enterprises, educational institutions, media outlets, public utilities, kosher grocers, and a bevy of individuals—all of whom she believes to have allied, improbably, in a joint mission to accomplish her personal and professional downfall. Consistent with this belief, she lodged a litany of allegations against each in the U.S. District Court for the Northern District of Illinois.

In a thorough and detailed decision amply supported with legal precedent, the magistrate recommended that the District Court dismiss her claims against each defendant on various procedural and jurisdictional grounds.

See Appendix to Petition at 19 *et seq.*[1] He noted in closing that "[t]he law is simply not designed to protect the sensibilities of individuals such as the plaintiff—it cannot be taken that far." *Id.* at 30. The district judge conducted a *de novo* review of the magistrate's report and adopted it in full. *Id.* at 18. In a subsequent and slightly modified order, she rejected Ms. Maddox's objections to the report. *Id.* at 3 *et seq.*

The Court of Appeals for the Seventh Circuit summarily affirmed. *Id.* at 1-2. First denying Ms. Maddox's motion for leave to proceed *in forma pauperis* in that court, the Seventh Circuit went on to observe that "any issues which could be raised are insubstantial and the filing of briefs would not be helpful to the court's consideration of the issues." *Id.* at 1.[2]

Ms. Maddox labors under the mistaken impression that a causal relationship exists between these two aspects of the Court of Appeals' order—that is, that the Seventh Circuit's denial of her *in forma pauperis* motion led it to affirm the dismissal of her complaint. The order of summary affirmance, however, supports no such reading. Quite to the contrary, the Seventh Circuit stated that the affirmance resulted from the fact that her proposed action was not substantial enough even to justify the expenditure of judicial resources that appellate review

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[1] With respect to several defendants, including this one, who had been named in putative causes of action for state-law claims, the District Court dismissed those claims pursuant to 28 U.S.C. § 1367(c).

[2] Because of its summary affirmance, the Seventh Circuit denied (as moot) Ms. Maddox's motion for leave to file an 82-page brief in excess of the 30-page limit set by rule.

would consume. *See* Appendix to Petition at 1. Ms. Maddox's inability to proceed *in forma pauperis* has not deprived her of an appeal; rather, she has been denied the indulgence of *in forma pauperis* status in her pursuit of a grievance that is no cause of action at all.

It is on the brink of her descent into the maelstrom of her dark and disturbed world that Ms. Maddox offers her most nearly lucid description of the bizarre and convoluted circumstances that the unlikely cabal of defendants has visited upon her:

> The situation was then and continues to be one of gross discrimination resulting in plaintiff's being "buried alive" with no chance of pursuing life, liberty and property interests as assured by the constitution and laws of this country. [Petition at 4.]

But her ensuing Statement of Facts is less a description of her quixotic legal odyssey than an aimless tour of the Kafkaesque world in which she evidently dwells. As a whole, the Petition sheds little light on Ms. Maddox's purported claims, and instead serves chiefly to give voice to the inner demons with whom she shares her tormented existence.

The courts have declined to supply her a field of battle, leaving her to tilt at windmills in the dark recesses of her troubled mind. The tenuous grip she holds on the concrete—and her manifest devotion, instead, to the abstract—have yet to be explored by a court of law, and are not properly before this Court. This Brief in Opposition is not meant to address those features. It is limited, instead, to correcting Ms. Maddox's misapprehension that the Court of Appeals for the Seventh Circuit slight-

ed her for applying for *in forma pauperis* status. Nothing in the record supports that interpretation, and nothing calls for review in this Court.

ARGUMENT

Nightmarish though it might be, the substance of Ms. Maddox's claim is not the subject of this Brief in Opposition. Instead, this Brief serves the strictly limited purpose of satisfying the obligation to apprise the Court of perceived misstatements set forth in the Petition. *See* Supreme Court Rule 15.1. In particular, it addresses a misstatement of fact contained in Ms. Maddox's Petition for Writ of *Certiorari*: her misstatement of the procedural history of this case, and specifically her incorrect description of the most recent chapter of that history.

The Court of Appeals' Summary Affirmance of the Dismissal of Petitioner's Complaint Did Not Result from the Denial of her Motion to Proceed *In Forma Pauperis*.

Despite Ms. Maddox's contrary belief, the Seventh Circuit's denial of her motion to proceed *in forma pauperis* had no causal impact upon the disposition of her grievances. No matter her financial status, the proper judicial response to her efforts was to dismiss them; "no one, rich or poor, is entitled to abuse the judicial process." *Demos v. Kincheloe*, 563 F. Supp. 30, 32 (E.D. Wash. 1982), *quoting Hardwick v. Brinson*, 523 F.2d 798, 800 (5th Cir. 1975). As a consequence, the status that Ms. Maddox sought in the Seventh Circuit would have made no difference to her action. "The law no more permits affluent

persons to file frivolous actions than persons proceeding *in forma pauperis*." *Lyszaj v. American Telephone & Telegraph*, 559 F. Supp. 51, 52 (E.D. Va. 1983).

Claims that are frivolous on their face are properly disregarded. *Stambler v. Dillon*, 288 F. Supp. 646, 649 (S.D.N.Y. 1968). The test for determining if an action is frivolous or without merit is "whether the plaintiff can make a rational argument on the law or facts in support of [her] claim." *Davis v. Oklahoma Dep't of Corrections*, 516 F. Supp. 5, 7 (W.D. Okla. 1980).

Ms. Maddox's Petition has no shortage of "colorful and innovative contentions." *See Demos*, 563 F. Supp. at 31. Indeed, it is possible that her Petition is intended chiefly as a literary artifact, and not as a claim at all. *See Norman v. Reagan*, 95 F.R.D. 476, 477 (D. Ore. 1982). But the more interesting aspects of her trials and tribulations need not be decided here. *See Seagate v. New Jersey*, 412 F. Supp. 413, 415 (D.N.J. 1976).

It is inappropriate that the justice system should continue to bear the costs associated with Ms. Maddox's petition-filing whims. *See Demos*, 563 F. Supp. at 32 (quoting order of Supreme Court of Washington dismissing collateral litigation). The Seventh Circuit recognized Ms. Maddox's tirade for what it is: a frivolous and misguided effort to seek help from a system that is not equipped to supply her the help she needs. *See, e.g., Gordon v. Secretary of State*, 460 F. Supp. 1026 (D.N.J. 1978); *United States ex rel. Mayo v. Satan*, 54 F.R.D. 282 (W.D. Pa. 1971). Nothing about its summary affirmance of the District Court's dismissal calls for review.

CONCLUSION

Linda Maddox offers no coherent ground meriting further attention. Her Petition for Writ of *Certiorari* should be denied.

Respectfully submitted,

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